

# Request for Proposals



Department of Executive Services  
Finance and Business Operations Division  
**Procurement and Contract Services Section**  
206-263-9400 TTY Relay: 711

## ADVERTISED DATE:

Request for Proposals (RFP) Title: Wellness Program Administration

RFP Number: 1779-11-CFR

Due Date: February 2, 2012 – 2:00 p.m.

Buyer: Cathy Robinson, [cathy.robinson@kingcounty.gov](mailto:cathy.robinson@kingcounty.gov),  
206-263-9311

Alternate Buyer: Victoria Nakamichi, [vicki.nakamichi@kingcounty.gov](mailto:vicki.nakamichi@kingcounty.gov),  
206-263-9299

### Pre-proposal Conference:

A pre-proposal conference to discuss questions related to this RFP will be held on January 4, 2012, at the Chinook Building located at 401 Fifth Ave, Seattle, WA 98104 on the 2<sup>nd</sup> Floor in conference room 223 at 10:30 AM, Pacific Time. A bridge conference line is available by calling the number 206-205-0999.

Sealed Proposals are hereby solicited and will **only** be received by:

King County Procurement Services Section  
Chinook Building, 3rd Floor  
401 Fifth Avenue  
Seattle, WA 98104

Office Hours: 8:00 a.m. – 5:00 p.m.  
Monday - Friday

**We acknowledge that all Addenda issued for this RFP have been examined as part of the proposal documents.**

Company Name

Address

City/State /Postal Code

Signature

Authorized Representative / Title

Email

Phone

Fax

Contact Name:

Phone

Email

Prime Proposer **SCS / DBE** Certification number (if applicable)

This Request for Proposal will be provided in alternative formats such as Braille, large print, audiocassette or computer disk for individuals with disabilities upon request.

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## DEFINITION OF WORDS AND TERMS APPLICABLE ONLY TO INSTRUCTION OF THE RFP

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

Addendum/Addenda: Written additions, deletions, clarification, interpretations, modifications or corrections to the solicitation documents issued by the County during the Proposal period and prior to contract award.

Best and Final Offer: Best and Final Offer shall consist of the Proposer's revised proposal and any supplemental information requested during the evaluation of Proposals. In the event of any conflict or inconsistency in the items submitted by the Proposer, the items submitted last govern.

Competitive Range: The Competitive Range consists of the Proposers that have a reasonable chance of selection for contract award. The Proposal Evaluators (PE) shall conduct the initial evaluation of the proposals considering price and Evaluation Factors established in the RFP. The Buyer and Project Manager/PE together shall compare the evaluations and determine the Competitive Range. The Competitive Range may be reduced after the evaluation of additional information, Best and Final Offers and negotiations.

Criteria, Evaluation Criteria or Evaluation Factors: The elements cited in the RFP that the County shall examine to determine the Proposers understanding of the requirements; technical, business and management approach; key personnel; qualification and experience of the Proposer; potential for successfully accomplishing the Contract; risk allocation and the probable cost to the County.

Days: Calendar days.

Proposal Evaluators (PE): Team of people appointed by the County to evaluate the proposals, conduct discussions, call for Best and Final Offers, score the proposals and make recommendations.

Proposer: Individual, association, partnership, firm, company, corporation or a combination thereof, including joint ventures, submitting a proposal to perform the Work.

RFP: Request for Proposals, also known as the solicitation document.

Reference Documents: Reports, Specifications, and drawings which are available to Proposers for information and reference in preparing proposals but not as part of this Contract.

## **SECTION 1      PROPOSAL PREPARATION**

### **1.1      Proposal Submission**

Proposers are encouraged to use recycled paper in the preparation of additional documents submitted with this solicitation, and shall use both sides of paper sheets where practicable.

Sealed proposals shall contain all required attachments and information and be submitted to King County (hereinafter "County") no later than the date, time and place stated on the front of this RFP or as amended. The proposals shall show the title and number, the due date specified, and the name and address of the Proposer on the face of the envelope. Proposers are cautioned that failure to comply may result in non-acceptance of the proposal. The Proposer accepts all risks of late delivery of mailed proposals or of misdelivery regardless of fault. Proposals properly and timely submitted will be publicly opened.

Proposals will only be accepted from Contractors able to complete the delivery of goods or services described in the specifications. Joint ventures shall submit one proposal for the team, with accompanying proof of the joint venture agreement.

If a company chooses not to submit a proposal, the County requests the company advise the Buyer by email if they desire to remain listed for the subject of this RFP and state the reason they did not submit a proposal.

### **1.2      Electronic Commerce and Correspondence**

King County is committed to reducing costs and facilitating quicker communication to the community by using electronic means to convey information. As such, most Invitations to Bid, Requests for Proposal, and Requests for Qualifications as well as related exhibits, appendices, and issued addenda can be found on the King County Internet Web Site, located at <http://www.kingcounty.gov/procurement> Current bidding opportunities and information are available by accessing the "**Solicitations**" tab in the left hand column.

King County Procurement Services features an **Online Vendor Registration (OVR)** program that permits vendors, consultants and contractors to register their business with the County. This OVR system allows interested parties to either directly register their firm by creating a unique User ID, or to visit the website as a guest. Information regarding bid documents will be available to all users; however, site visitors accessing the site as a guest will not be able to document their interest in a project or add their name to the document holder's list. They will receive no automatic notification of issued addenda. As such, the County encourages full registration in order to directly communicate with document holders regarding any issued addenda or other important information concerning the solicitation.

After submittals have been opened in public, the County will post a listing of the businesses submitting proposals, and later, any final award determination.

Full information on vendor registration is available at the website.

### **1.3      Late Proposals**

Proposals, modifications of proposals, received at the office designated in the solicitation after the exact hour and date specified for receipt will not be considered.

### **1.4      Cancellation of RFP or Postponement of Proposal Opening**

The County reserves the right to cancel this RFP at any time. The County may change the date and time for submitting proposals prior to the date and time established for submittal.

## 1.5 Proposal Signature

Each proposal shall include a completed Proposal response form, the first page of this document, signed by an authorized representative of the Proposer.

## 1.6 Addenda

If at any time, the County changes, revises, deletes, clarifies, increases, or otherwise modifies the RFP, the County will issue a written Addendum to the RFP.

## 1.7 Questions and Interpretation of the RFP

No oral interpretations of the RFP will be made to any Proposer. All questions and any explanations must be requested in writing and directed to the Buyer no later than **five (5) Days** prior to the due date specified in the solicitation. Oral explanations or instructions are not binding. Communications concerning this RFP with other than the listed Buyer or Procurement staff may cause the Proposer to be disqualified. Any information modifying a solicitation will be furnished to all Proposers by addendum. **Communications concerning this proposal, with other than the listed Buyer may cause the Proposer to be disqualified.**

## 1.8 Schedule

Day/Month/Year	Event
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<u>December 1, 2011</u>	Public announcement of Request for Proposals
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<u>December 30, 2011</u>	Preproposal questions due, in writing
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<u>January 4, 2012</u>	Preproposal conference (see first page of RFP for time and location)
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<u>January 19, 2012</u>	Last day to submit questions
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<u>February 2, 2012</u>	Proposals due
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<u>February 3, 2012</u>	*Begin Evaluation of Proposals
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<u>Early May 2012</u>	*Begin Interviews/Demonstrations/conduct Site Visits if applicable
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<u>Late May 2012</u>	*Begin Negotiations
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<u>Early June 2012</u>	*Execute Contract
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\*NOTE: Dates preceded by an asterisk are estimated dates. Estimated dates are for information only.

## 1.9 Pre-Proposal Conference

A pre-proposal conference will be held at the time, date and location indicated on the cover page of the RFP. All prospective Proposers are strongly encouraged to attend. The intent of the pre-proposal conference is to assist the Proposers to more fully understand the requirements of this RFP. Proposers are encouraged to submit questions in advance to enable the County to prepare responses; these questions should be E-mailed to the Buyer. Questions will be encouraged during the pre-proposal conference also.

## 1.10 Examination of Proposal and Contract Documents

The submission of a proposal shall constitute an acknowledgement upon which the County may rely that the Proposer has thoroughly examined and is familiar with all requirements and documents pursuant with the RFP, including any addenda and has reviewed and inspected all



applicable statutes, regulations, ordinances and resolutions addressing or relating to the goods or services to be provided hereunder.

The failure of a Proposer to comply with the above requirement shall in no way relieve the Proposer from any obligations with respect to its proposal or to any Contract awarded pursuant to this RFP. No claim for additional compensation shall be allowed which is based upon a lack of knowledge or misunderstanding of this RFP.

#### **1.11 Cost of Proposals and Samples**

The County is not liable for any costs incurred by Proposer in the preparation and evaluation of proposals submitted. Samples of items required must be submitted to location and at time specified. Unless otherwise specified, samples shall be submitted with no expense to the County. If not destroyed by testing, samples may be returned at the Proposer's request and expense unless otherwise specified.

#### **1.12 Modifications of Proposal or Withdrawal of Proposal Prior to Proposal Due Date**

At any time before the time and date set for submittal of proposals, a Proposer may submit a modification of a proposal previously submitted to the County. All proposal modifications shall be made in writing, executed and submitted in the same form and manner as the original proposal.

Proposals may be withdrawn by written notice received prior to the exact hour and date specified for receipt of proposals. A proposal also may be withdrawn in person by a Proposer or authorized representative provided their identity is made known and they sign a receipt for the proposal, but only if the withdrawal is made prior to the exact hour and date set for receipt of proposals. All requests for modification or withdrawal of proposals, whether in person or written, shall not reveal the amount of the original proposal.

#### **1.13 Proposal Withdrawal After Public Opening**

Except for claims of error granted by the County, no Proposer may withdraw a proposal after the date and time established for submitting proposals, or before the award and execution of a Contract pursuant to this RFP, unless the award is delayed for a period exceeding the period for proposal effectiveness.

Requests to withdraw a proposal due to error must be submitted in writing along with supporting evidence for such claim for review by the County. Evidence must be delivered to the County within two (2) Days after request to withdraw. The County reserves the right to require additional records or information to evaluate the request. Any review by the County of a proposal and/or any review of such a claim of error, including supporting evidence, creates no duty or liability on the County to discover any other proposal error or mistake, and the sole liability for any proposal error or mistake rests with the Proposer.

#### **1.14 Error and Administrative Corrections**

The County shall not be responsible for any errors in proposals. Proposers shall only be allowed to alter proposals after the submittal deadline in response to requests for clarifications or Best and Final Offers by the County.

The County reserves the rights to allow corrections or amendments to be made that are due to minor administrative errors or irregularities, such as errors in typing, transposition or similar administrative errors.

## 1.15 Proposal Content Requirements

- A. The proposal shall contain the following items and follow the sequence outlined below:

### **Sec. 1 & 2 Instructions and Information about the RFP Process**

Cover sheet with Proposer's Signature

Compliance Forms:

- Equal Benefit Worksheet and Declaration
- [Internal Revenue Service Form W-9](#) \*

\*If not on file with the County within the past two years.

- Certificate of Lobbying Activities (see Section 14)

Compliance forms are available for download at

<http://www.kingcounty.gov/procurement/forms>, Goods and Services web page.

### **Sec 3 - Scope of Work and Proposal Requirements**

See Sections 3.12 Proposal Content Requirements

### **Attachment A Contract:**

Identify any exceptions to terms and conditions and attachments with a signed letter from an attorney or authorized representative. See Section 1.17 Acceptance of Contract, Attachments and Addenda.

- B. Submit copies of the proposal and attachments as outlined in Section 3.12 Proposal Content Requirements.

## 1.16 Compliance with RFP Terms, Attachments and Addenda

- A. The County intends to award a Contract based on the terms, conditions, attachments and addenda contained in this RFP. Proposers shall submit proposals, which respond to the requirements of the RFP.
- B. Proposers are strongly advised to not take exceptions to the terms, conditions, attachments and addenda; exceptions may result in rejection of the proposal. An exception is not a response to a proposal requirement. If an exception is taken, a 'Notice of Exception' must be submitted with the proposal. The 'Notice of Exception' must identify the specific point or points of exception and provide an alternative.
- C. The County reserves the right to reject any proposal for any reason including, but not limited to, the following –
- Any proposal, which is incomplete, obscure, irregular or lacking necessary detail and specificity;
  - Any proposal that has any qualification, limitation, exception or provision attached to the proposal;
  - Any proposal from Proposers who (in the sole judgment of the County) lack the qualifications or responsibility necessary to perform the Work;
  - Any proposal submitted by a Proposer which is not registered or licensed as may be required by the laws of the state of Washington or local government agencies;

- Any proposal, from Proposers who are not approved as being compliant with the requirements for equal employment opportunity; and
  - Any proposal for which a Proposer fails or neglects to complete and submit any qualifications information within the time specified by the County.
- D. The County may, at its sole discretion, determine that a proposal with a 'Notice of Exception' merits evaluation. A proposal with a 'Notice of Exception' not immediately rejected may be evaluated, but its competitive scoring shall be reduced to reflect the importance of the exception. Evaluation and negotiation shall only continue with the Proposer if the County determines that the proposal continues to be advantageous to the County.
- E. In consideration for the County's review and evaluation of its proposal, the Proposer waives and releases any claims against the County arising from any rejection of any or all proposals, including any claim for costs incurred by Proposers in the preparation and presentation of proposals submitted in response to this RFP.
- F. Proposals shall address all requirements identified in this RFP. In addition, the County may consider proposal alternatives submitted by Proposers that provide cost savings or enhancements beyond the RFP requirements. Proposal alternatives may be considered if deemed to be in the County's best interests. Proposal alternatives shall be clearly identified.

#### **1.17 Acceptance of Contract, Attachments and Addenda**

Proposer(s) shall review Attachment A Contract, and all its attachments, and submit a signed letter by their attorney or authorized legal representative stating they intend to comply with all the terms and conditions. The signed letter shall be submitted with the proposal.

If there are exceptions taken to the terms and conditions in Attachment A Contract and any of its attachments, the Proposer's attorney or authorized legal representative shall sign an exception letter describing reasoning for the exceptions and include the exception letter and Attachment A Contract as an attachment to the proposal, identifying the exceptions and proposed changes. All proposed changes shall be tracked in Attachment A Contract using the tracking changes feature in Microsoft Word®.

The project schedule is such that it requires a very efficient proposal review and negotiation period. It is very important that any possible roadblocks or issues the Proposer may have with the terms and conditions are identified during the proposal process and resolved prior to proceeding with the Contract negotiations.

#### **1.18 Forms Required before Contract Signing**

- The Proposer shall submit within five (5) Days of notification from the County the insurance certificate and endorsement meeting the levels of coverage set forth in this RFP.

#### **1.19 Collusion**

If the County determines that collusion has occurred among Proposers, none of the proposals from the participants in such collusion shall be considered. The County's determination shall be final.

#### **1.20 Proposal Price and Effective Date**

- A. The proposal price shall include everything necessary for the prosecution and completion of Work under the Contract including but not limited to furnishing all materials, equipment,

supplies, tools, plant and other facilities and all management, supervision, labor and service, except as may be provided otherwise in this RFP. Proposed Prices shall include all freight charges, FOB to the designated delivery point. Washington State sales/use taxes and Federal excise taxes shall not be included in the proposal price. The County shall pay any Washington State sales/use taxes applicable to the Contract price or tender an appropriate amount to the Contractor for payment to Washington State. The County is exempt from Federal excise taxes. All other government taxes, duties, fees, royalties, assessments and charges shall be included in the Proposal price.

- B. In the event of a discrepancy between the unit price and the extended amount for a proposal item, the County reserves the right to clarify the Proposal.
- C. The proposal shall remain in effect for 90 Days after the proposal due date, unless extended by agreement.

### **1.21 Procedure When Only One Proposal Is Received**

If the County receives a single responsive, responsible proposal, the County may request an extension of the proposal acceptance period and/or conduct a price or cost analysis on such proposal. The Proposer shall promptly provide all cost or pricing data, documentation and explanation requested by the County to assist in such analysis. By conducting such analysis, the County shall not be obligated to accept the single proposal; the County reserves the right to reject such proposal or any portion thereof.

### **1.22 Protest Procedures**

King County has a process in place for receiving protests based upon the RFP or contract awards. The protest procedures are available at <http://www.kingcounty.gov/procurement/faq>, Suppliers web page.

### **1.23 Supported Employment Program**

The County encourages the creation of supported employment programs for developmentally and/or severely disabled individuals. The County itself has such a program and is actively seeking to do business with those Contractors and Consultants that share this employment approach. If your firm has such a program, or intends to develop such a program during the life of this Contract, please submit Documentation supporting this claim with your proposal. If you have questions, or need additional information, please contact the Community and Human Services Division, Developmental Disabilities Division, 206-296-5268.

## **SECTION 2      PROPOSAL EVALUATION AND CONTRACT AWARD**

### **2.1      Proposal Evaluation**

- A. The County will evaluate proposals using the criteria set forth in this RFP. If deemed necessary, written and/or oral discussions, site visits or any other type of clarification of proposal information may be conducted with those Proposers whose proposals are found to be potentially acceptable. Identified deficiencies, technical requirements, terms and conditions of the RFP, costs or prices, and clarifications may be included among the items for discussion. The discussions are intended to give Proposers a reasonable opportunity to resolve deficiencies, uncertainties and clarifications as requested by the County and to make the cost, pricing or technical revisions required by the resulting changes. In addition, the County may request additional business and administrative information.
- B. The County may find that a Proposer appears fully qualified to perform the Contract or it may require additional information or actions from a Proposer. In the event the County determines that the proposal is not within the Competitive Range the County shall eliminate the proposal from further consideration.
- C. The evaluation of Proposers' proposals and additional information may result in successive reductions of the number of proposals that remain in the Competitive Range. If applicable to the procurement, the firms remaining in the Competitive Range may be invited to continue in the proposal evaluation process, and negotiations.
- D. Upon completion of discussions, the County may issue to all remaining potentially acceptable Proposers within the competitive range a request for Best and Final Offers. The request shall include notice that discussions are concluded, an invitation to submit a revised proposal with a Best and Final Offer, and a new submittal date and time.
- E. The County may enter negotiations with one or more Proposers to finalize Contract terms and conditions. Negotiation of a Contract shall be in conformance with applicable federal, state and local laws, regulations and procedures. The objective of the negotiations shall be to reach agreement on all provisions of the proposed Contract. In the event negotiations are not successful, the County may reject proposals.
- F. The County reserves the right to make a Contract award without written and/or oral discussions with the Proposers and without an opportunity to submit Best and Final Offers when deemed to be in the County's best interests. Contract award, if any, shall be made by the County to the responsible Proposer whose proposal best meets the requirements of the RFP, and is most advantageous to the County, taking into consideration price and the other established evaluation factors. The County is not required to award a Contract to the Proposer offering the lowest price. The County shall have no obligations until a Contract is signed between the Proposer and the County. The County reserves the right to award one or more contracts as it determines to be in its best interest.

### **2.2      Responsive and Responsible**

#### **Responsive**

The County will consider all the material submitted by the Proposer, and other evidence it may obtain otherwise, to determine whether the Proposer is in compliance with the terms and conditions set forth in this RFP.

## Responsible

In determining the responsibility of the Proposer, the County may consider:

- the ability, capacity and skill to perform the Contract and provide the service required;
- the character, integrity, reputation, judgment and efficiency;
- financial resources to perform the Contract properly and within the times proposed;
- the quality and timeliness of performance on previous contracts with the County and other agencies, including, but not limited to, the effort necessarily expended by the County and other agencies in securing satisfactory performance and resolving claims;
- compliance with federal, state and local laws and ordinances relating to public contracts;
- other information having a bearing on the decision to award the Contract.

Failure of a Proposer to be deemed responsible or responsive may result in the rejection of a proposal.

## 2.3 Evaluation Criteria and Proposal Scoring

Each proposal has a total possible score of 200 points with the points assigned as follows:

Evaluation Criteria and Proposal Scoring	
Category	Points
<b>Incentive Administration</b> Evaluation of proposer's overall capability to administer the incentive program based on demonstrated experience. Includes implementation and transition to ongoing operations, processing of eligibility, management of customer service and appeals, tracking and reporting of participation, calculation of earned incentives, integration with outside vendors, communications capabilities and strength of the account management team and overall organizational experience. The incentive administration scores will include an evaluation of each proposer's capability to administer the current incentive program as well as an evaluation of the proposer's capability to administer other incentive programs that may be bargained with the county's labor unions and implemented during the term of the agreement.	<b>50</b>
<b>Price</b> Evaluation of the overall competitiveness of proposer's price proposal. The price scores will include an evaluation of the proposed performance guarantees.	<b>50</b>
<b>Health Risk Assessment</b> Evaluation of the design, philosophy and management of the health risk assessment, including the proposer's capability to allow for customization. Includes availability of health risk assessment in all requested formats as well as the usability and design of the health risk assessments in the requested formats. Health risk assessment scores will additionally include the evaluation of each proposer's capabilities in the area of measurement and reporting of health risks.	<b>30</b>
<b>Individual Action Plan Programs</b> Evaluation of proposer's offering of programs available to members for healthy behavior change. A key element of the evaluation will be the health risks addressed by each proposer's programs as well as the evidence basis for the proposed programs, including the ability to demonstrate results. A specific area	<b>40</b>

<b>Evaluation Criteria and Proposal Scoring</b>	
<b>Category</b>	<b>Points</b>
of focus will be proposer's capability to measure rewardable actions and to customize programs to meet the requirements of the Healthy Incentives <sup>SM</sup> program as defined in this RFP. The individual action plan scores will also reflect the evaluation of the design and usability of the available individual action plans in all requested formats and the marketability of the programs within the county's population and culture.	
<b>Total possible Written</b>	<b>170</b>
<b>Finalist Interviews</b> Finalist interviews will be conducted with proposers which receive the highest overall scores from the other four evaluation categories listed above. The county may elect to interview all of the proposers who respond to the RFP or only those proposers who are within the competitive range following the evaluation and scoring of written proposals. Proposers will receive questions in advance of the interviews and will be given time for presentations. All elements of the submitted proposals may be topics for discussion during finalist interviews. The proposal evaluation team may also use finalist interviews to pose questions related to prior experiences working with proposers or publicly available information about proposers.	<b>30</b>
<b>Total Evaluation</b>	<b>200 points</b>


## 2.4 Public Disclosure of Proposals

This procurement is subject to the Washington Public Disclosure Act, RCW (Revised Code of Washington) 42.17.250 et seq. Proposals submitted under this RFP shall be considered public documents unless the documents are exempt under the public disclosure laws. After a decision to award the contract has been made, the proposals shall be available for inspection and copying by the public.

If a Proposer considers any portion of its proposal to be protected under the law, the Proposer shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If the County determines that the material is not exempt from public disclosure law, the County will notify the Proposer of the request and allow the Proposer ten (10) Days to take whatever action it deems necessary to protect its interests. If the Proposer does not take such action within said period, the County will release the portions of the proposal deemed subject to disclosure. By submitting a proposal, the Proposer assents to the procedure outlined in this subsection and shall have no claim against the County on account taken under such procedure.

## PROPOSAL LABEL

Complete the form below (or reasonable facsimile) and affix to the exterior lower left hand corner of the submission envelope(s), box(es), etc.

<b>U R G E N T – SEALED PROPOSAL ENCLOSED</b> <b>Do Not Delay – Deliver Immediately</b>	
<b>U R G E N T</b>	 <b>King County</b>  King County Procurement & Contract Services Section Chinook Building, 3 <sup>rd</sup> FL CNK-ES-0340 401 Fifth Avenue Seattle, WA 98104
	<b>Proposal Number. 1779-11-CFR</b>
	<b>Proposal Title Wellness Program Administration</b>
	<b>Opening Date</b>
	<b>Firm Name</b>
<b>U R G E N T</b>	



## SECTION 3 Introduction and Requirements

The purpose of this Request for Proposal (RFP) is to select a proposer who will administer the King County Healthy Incentives<sup>SM</sup> wellness program. The Healthy Incentives<sup>SM</sup> program includes a health risk assessment (HRA) and a variety of online and paper based health improvement programs or individual action plans (IAPs). The IAPs will include programs offered by the awarded proposer as well as group based and coaching based programs administered by the county and third party vendors contracted by the county. IAPs target physical activity, nutrition, stress, weight management, tobacco cessation and disease management. All participants currently have access to supplemental, non-incented wellness coaching in addition to the core health improvement programs which is included in the scope of this RFP.

The county will select a single qualified proposer to administer the full scope of services contained in this RFP. The successful proposer shall provide excellent programs and services and the expertise and capability to administer a complex incentive program including integration with outside vendors.

The scope of services included in this RFP and detailed later in this document are as follows:

1. **Incentive Administration** – includes the provision of a wellness portal and all calculation and communication of earned incentives to program participants and the county.
2. **Health Risk Assessments** – includes provision of both online and paper HRAs and aggregate reporting on population demographics and health risks.
3. **Individual Action Plans** – includes provision of both online and paper IAPs and aggregate reporting on participant engagement.
4. **Integration with outside vendors** – includes referrals to outside vendors administering IAPs and receipt of data regarding earned incentives.

### 3.1 King County Background

King County is a general government public entity encompassing Seattle, Bellevue, and a number of smaller suburban cities in Washington State. King County provides regional services including courts and related legal services, public health services, County jail, records and elections, property tax appraisals, regional parks and recreational facilities, public transit and wastewater treatment. In unincorporated communities, King County also provides police protection, animal control, land-use regulation, roads and local parks.

### 3.2 King County - Eligible Population

The County has approximately 14,000 benefits-eligible employees and an additional 18,500 covered family members. Members eligible for the Healthy Incentives<sup>SM</sup> program include all County employees, spouses and domestic partners, numbering approximately 19,500 in total (14,000 benefits-eligible employees plus 5,500 spouses or domestic partners). Dependent children are not eligible to participate in the Healthy Incentives<sup>SM</sup> program.

The County is highly unionized (83%) and has 73 union contracts across 99 bargaining units. Benefits are bargained by coalition in three-year cycles through the Joint Labor Management Insurance Committee (JLMIC), a union coalition labor agrees will represent them in bargaining. The County and the JLMIC may elect to extend negotiated benefits for up to five years. Benefits bargained with the JLMIC apply to all County employees with a number of exceptions.

The King County Police Officer's Guild negotiates benefits for the King County Deputy Sheriffs independently resulting in some administrative differences described later in this RFP.

There are several populations, including early retirees, COBRA enrollees, part time transit operators, and several smaller bargained units who are eligible to participate in the Healthy

Incentives<sup>SM</sup> program outside of the incentive plan. The specific business rules which apply to these populations are outlined later in this RFP.

King County reserves the right to modify the eligible population for participation in the Healthy Incentives program or modify the participation requirements. Modifications may be the result of collective bargaining or county strategy. Modifications to the eligible population may include exclusion from participation or modified participation rules based on bargaining unit or health plan selection.

### 3.3 King County – Demographics

The chart below provides demographic profile of the King County members who participated in the Healthy Incentives<sup>SM</sup> program in 2011. The numbers below represent both employees and their covered spouses/domestic partners.

	2011
<b>Gender</b>	
<b>Males</b>	<b>9,326</b>
- Percentage	51.0%
<b>Females</b>	<b>8,948</b>
- Percentage	49.0%
<b>Age</b>	
<b>18 - 34</b>	<b>1,900</b>
- Percentage	10.4%
<b>35 - 54</b>	<b>10,133</b>
- Percentage	55.5%
<b>55 +</b>	<b>6,241</b>
- Percentage	34.2%
<b>Average Age</b>	<b>49.0</b>
<b>Race/Ethnicity</b>	
<b>White</b>	<b>11,605</b>
- Percentage	70.0%
<b>African American</b>	<b>1,713</b>
- Percentage	10.3%
<b>Hispanic</b>	<b>632</b>
- Percentage	3.8%
<b>Asian</b>	<b>1,744</b>
- Percentage	10.5%
<b>Native American</b>	<b>219</b>
- Percentage	1.3%
<b>Multi-racial</b>	<b>467</b>
- Percentage	2.8%
<b>Other</b>	<b>207</b>
- Percentage	1.2%
<b>Education</b>	
<b>Elementary/High School</b>	<b>2,058</b>
- Percentage	11.6%
<b>Some College</b>	<b>6,677</b>
- Percentage	37.6%
<b>College Graduate</b>	<b>9,018</b>
- Percentage	50.8%

### **3.4 King County – Supportive Environment**

King County has created many resources to support employees in taking control of their health. Seventy-five percent of high-risk participants participating in the program have reported improving or eliminating one or more risk factors. These health improvements can be attributed to the Healthy Incentives<sup>SM</sup> program and the tools and programs that King County has created to support employees in improving their health.

Programs such as Weight Watchers at Work®, gym discounts for employees, healthy options in vending machines, and on-site flu shots are all a part of an environment that is supportive of good health. Events such as the Live Well Challenge, Health Leadership Forum, and Health and Benefits Fair are also important components of the supportive environment. In addition to these programs and events King County has invested in ongoing health promotion and management training to enhance the supportive environment.

Several of the programs such as Weight Watchers at Work® and the King County Live Well Challenge that have been part of King County's effort to create a supportive environment for employees and covered dependents are now integrated IAPs in the Healthy Incentives<sup>SM</sup> program. King County will continue to develop new ways to promote and foster healthy behaviors among our employees and within our community at large.

### **3.5 The Healthy Incentives<sup>SM</sup> Program Background**

King County first implemented the Healthy Incentives<sup>SM</sup> program in 2006. At that time participants took their first HRAs and participated in IAPs which determined their plan options for 2007. Participants completed the HRA and were stratified into low, moderate, or high risk categories based on their responses to the HRA. IAPs were then determined by each participant's risk level. Low risk members participated in self-guided online and paper IAPs focusing on nutrition and physical exercise, while moderate and high risk members worked with wellness coaches. The design of the Healthy Incentives<sup>SM</sup> program remained largely unchanged until 2010.

In 2010 King County implemented a series of changes to the Healthy Incentives<sup>SM</sup> program, which focused on providing more options for participants on their IAPs while simultaneously controlling program costs. In 2010 members were no longer stratified into low, moderate or high risk categories and selection of IAPs was left to each participant. More IAPs were added to the program and wellness coaching was no longer an incented IAP.

More information on the history of the Healthy Incentives<sup>SM</sup> program may be found at: <http://www.kingcounty.gov/employees/HealthMatters/Visitors/HRIToolkit.aspx>.

### **3.6 Overview – How the Healthy Incentives<sup>SM</sup> Program Works**

Participation in the Healthy Incentives<sup>SM</sup> program determines each member's benefit plan options for the following calendar year. Members who participate in the Healthy Incentives<sup>SM</sup> program first complete a HRA and then participate in an IAP which allows them to improve their health by targeting behavior change related to their specific health risks. IAPs are designed to improve members' health by engaging them in self-guided programs, supplemented by voluntary coaching programs, which allow them to develop, improve, or maintain healthy lifestyles.

The county has two health plan administrators, including a traditional PPO plan and a staff-model HMO. Both offer three plan options, which include the "Gold", "Silver", and "Bronze" plans, each of which cover the same benefits but have different out-of-pocket costs for

members. The Gold plan has the lowest out of pocket costs for members and the Bronze plan has the highest out-of-pocket costs. Eligibility for the three plans is based on the member's participation in the Healthy Incentives<sup>SM</sup> program. The three plan options as they correspond to participation in the Healthy Incentives<sup>SM</sup> program are as follows:

PLAN	PARTICIPATION
Bronze Plan	No participation in program
Silver Plan	Completion of the HRA
Gold Plan	Completion of the HRA and completion of an IAP

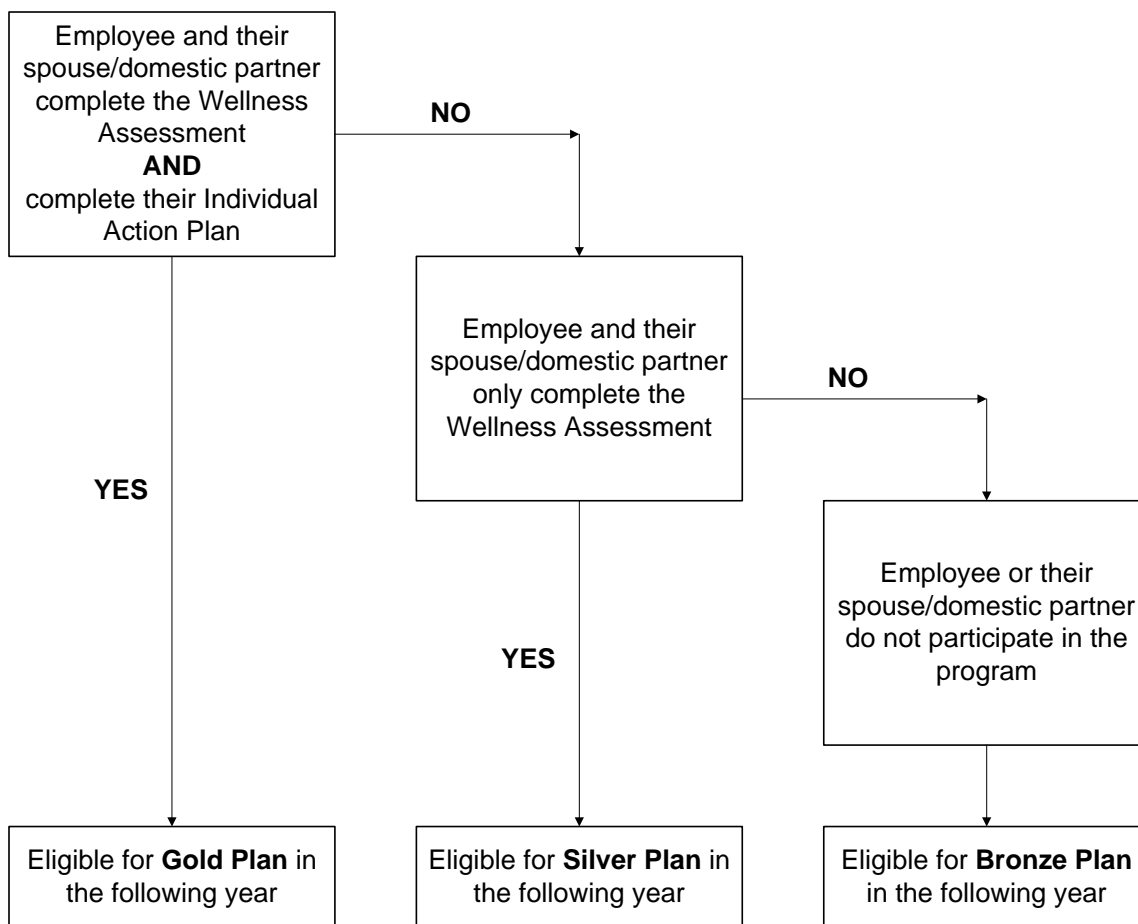
Out of pocket costs for the three plans are as follows:

PLAN	OUT OF POCKET COSTS
<b>KingCare<sup>SM</sup> PPO (administered by Regence BlueShield)</b>	
Bronze Plan	\$800 individual/\$2,400 family deductible 75% plan coinsurance \$1,200 out of pocket max per individual \$2,400 out of pocket max per family
Silver Plan	\$600 individual/\$1,800 family deductible 75% plan coinsurance \$1,000 out of pocket max per individual \$2,000 out of pocket max per family
Gold Plan	\$300 individual/\$900 family deductible 85% plan coinsurance \$800 out of pocket max per individual \$1,600 out of pocket max per family
<b>SmartCare Connect HMO (administered by Group Health Cooperative)</b>	
Bronze Plan	\$50 office visit co-pay \$600 co-pay per emergency room admission \$3,000 out of pocket max per individual \$6,000 out of pocket max per family
Silver Plan	\$35 office visit co-pay \$400 co-pay per emergency room admission \$2,000 out of pocket max per individual \$4,000 out of pocket max per family
Gold Plan	\$20 office visit co-pay \$200 co-pay per emergency room admission \$1,000 out of pocket max per individual \$3,000 out of pocket max per family

The Healthy Incentives<sup>SM</sup> program determines health plan eligibility for participating members and enrollment in health plans happens on a family level. With this in mind, the Healthy

Incentives<sup>SM</sup> program incentives are earned at a family level. Employees and their covered spouses/domestic partners each are required to participate in the Healthy Incentives<sup>SM</sup> program as individual participants and covered children are not eligible to participate. The family color level is equal to the lowest incentive earned by either the employee or their covered spouse/domestic partner.

The diagram below provides an overview of how participation in the Healthy Incentives<sup>SM</sup> program determines plan eligibility.



The incentive period for the Healthy Incentives<sup>SM</sup> program is January through June each year as earned incentives are applied to plan eligibility for the following year. Between July and September of each year the county and the awarded proposer will facilitate an appeals period where program participants can appeal their final color level based on a variety of conditions outlined in the Exhibit C – Incentive Administration Questionnaire. At the completion of the appeals process the awarded proposer will pass a final color level file to the county which will reflect the family color level for each participant in the program for open enrollment in October and November.

### 3.7 Participation Rates

Participation rates in the Healthy Incentives<sup>SM</sup> program have been extraordinary compared to industry standards, with HRA participation rates averaging 90% and IAP participation rates averaging 79% over the first six years of the program. The county is proud of the commitment members have made to participation in the program and the positive results that these

members have demonstrated in their personal health. The chart below shows HRA and IAP participation numbers and percentage rates compared to the total eligible population.

	2006	2007	2008	2009	2010	2011
<b>Total Eligible Members</b>	19,702	19,377	19,401	21,085	20,500	20,186
<b>HRA Completions</b>	17,844	17,772	17,401	18,788	18,982	16,465
<b>HRA Participation Rate</b>	91%	92%	89%	89%	93%	83%
<b>IAP Completions</b>	15,703	15,913	16,074	16,549	15,763	15,189
<b>IAP Participation Rate</b>	80%	82%	83%	78%	77%	75%

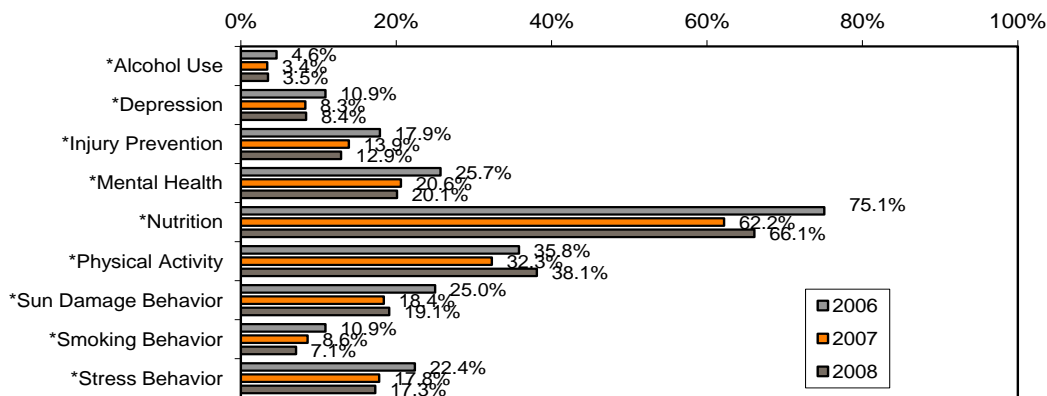
Final eligibility based on participation in the Healthy Incentives<sup>SM</sup> program for the 2007 through 2011 plan years are outlined below. Bronze, Silver and Gold enrollment has been relatively consistent throughout the history of the program with a few exceptions. The 2010 program year saw a significant increase in Silver eligibility due in part to the changes made to the IAPs described in Section 3.5 above. The elimination of wellness coaching as an eligible IAP meant that a significant portion of the program participants (more than 50%) would be required to complete self-guided health improvement programs for the first time, rather than receiving outreach from coaches to earn the Gold incentive. This represented a significant change in the engagement profile of these members, some of whom did not earn the incentive despite having enrolled and engaged in the self-guided IAPs. The increase in Bronze plan eligibility in 2011 clearly demonstrates that some members who had failed to earn the Gold incentive in 2010 elected not to participate in the program in 2011.

Plan	2007	2008	2009	2010	2011
<b>Bronze Plan Eligibility</b>	1,858	1,605	2,741	1,518	3,721
Bronze %	9.4%	8.3%	13.0%	7.4%	18.4%
<b>Silver Plan Eligibility</b>	2,141	1,859	1,797	3,219	1,276
Silver %	10.9%	9.6%	8.5%	15.7%	6.3%
<b>Gold Plan Eligibility</b>	15,703	15,913	16,549	15,763	15,189
Gold %	79.7%	82.1%	78.5%	76.9%	75.3%

### 3.8 Results

King County employees and their spouses/domestic partners reported significant improvement in 12 of 14 “at-risk” health indicators measured from 2006 – 2008. The measures showing risk reduction were alcohol use, depression, injury prevention, mental health, nutrition, sun damage behavior, tobacco use, stress, weight (Body Mass Index), cholesterol, and systolic and diastolic blood pressure. The two factors that showed an increase in risk were physical activity and blood glucose.

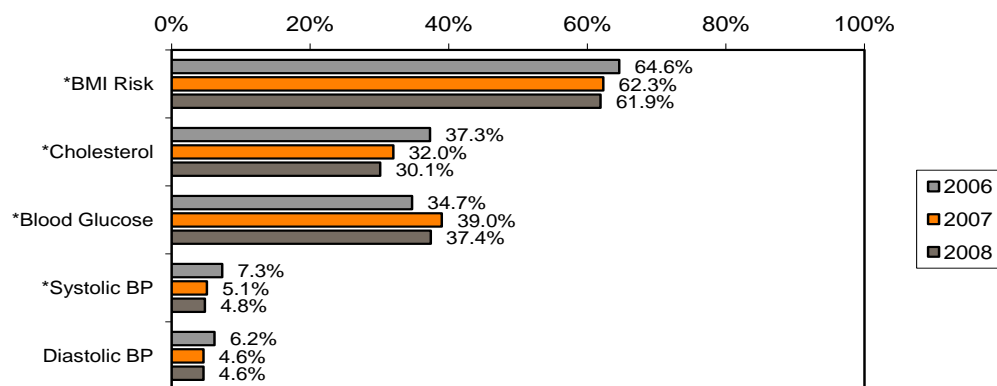
**At-Risk Prevalence for Health Behaviors  
2006-2007-2008 Aggregate (Employees and Spouses/Partners)**



Source: Thomson Reuters

\*p-value <0.05, using McNemar's chi square test

**At-Risk Prevalence for Biometrics  
2006-2007-2008 Aggregate (Employees and Spouse/Partners)**

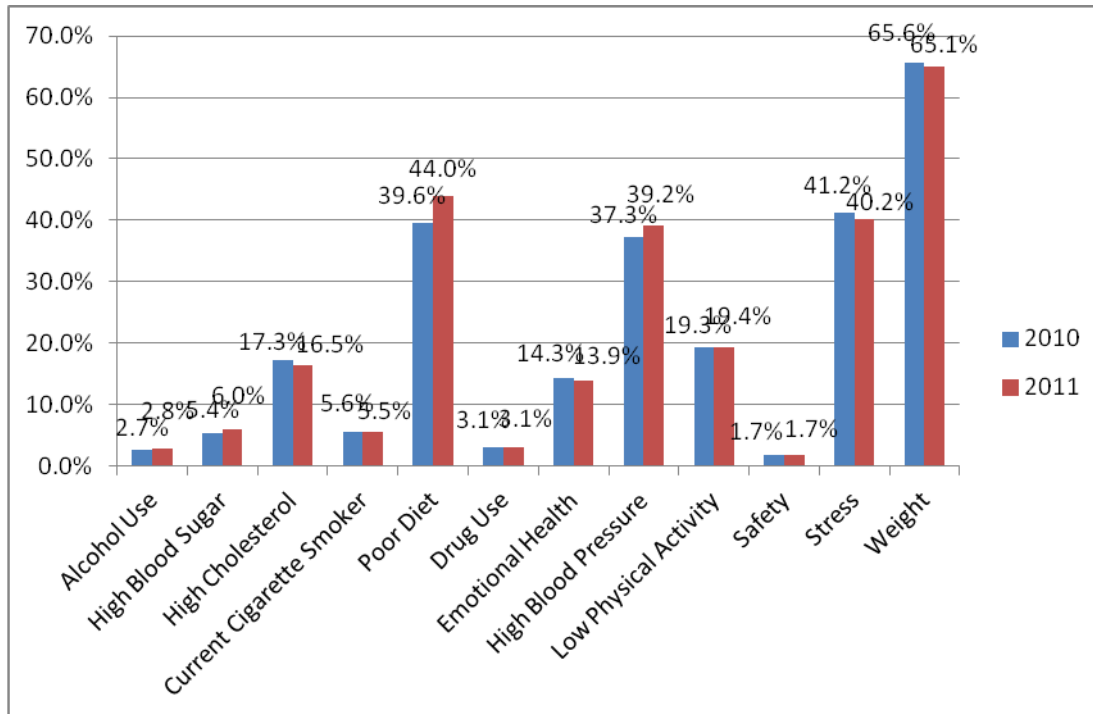


Source: Thomson Reuters

\*p-value <0.05, using McNemar's chi square test

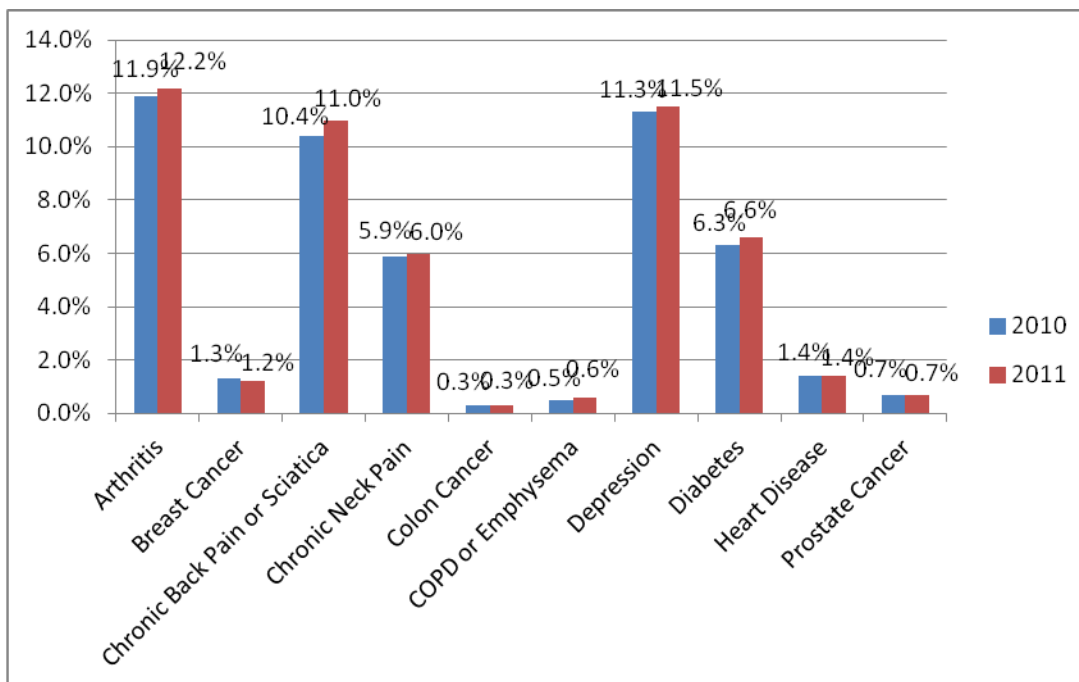
Beginning in 2010, King County transitioned the administration of the Healthy Incentives<sup>SM</sup> program to a new administrator. The reporting metrics displayed below do not represent a one-to-one comparison of the health risks or conditions as compared to the graphs above. It is expected that the significant fluctuations in the data between the program years 2006 through 2008 and 2010 through 2011 are a result of differing measures of risk or severity of conditions

and the county has not yet conducted an analysis of the risk factors or conditions which would allow us to provide a comprehensive overview of these results at this time. Nonetheless, these metrics represent important information about the health risks facing King County's employees and their spouses/domestic partners and are reported here in this RFP for the sake of background for proposers. Risk factors for participants in the Healthy Incentives<sup>SM</sup> Program in 2010 and 2011 were as follows:



Source: WebMD Health Services Inc.

Prevalence of conditions for participants in the Healthy Incentives<sup>SM</sup> Program in 2010 and 2011 were as follows:



Source: WebMD Health Services Inc.



The November 2011 issue of the *Journal of Environmental and Occupational Medicine* published a study entitled “Short-term and Long-term Weight Management Results of a Large Employer-Sponsored Wellness Program” demonstrating impressive results of the King County Healthy Incentives<sup>SM</sup> program. The article details the most comprehensive study to date of long-term weight loss associated with employee wellness programs. King County employees lost significant weight and kept it off while a comparable national sample gained steadily over the same period of time.

Compared to other recent studies of weight loss associated with employee wellness programs, King County’s results were documented over a longer period of time and included many more participants. The results provide scientific evidence that workplace wellness programs can be effective in encouraging weight loss and sustained weight management.

The study looked at Body Mass Index (BMI) for 19,559 participants during their first year in the program and then followed 10,432 participants over five years comparing both groups to a national sample from the Medical Expenditures Panel Survey (MEPS), a stratified random sample survey conducted annually by the Agency for Healthcare Research and Quality. During their first year in the county’s program participants lost 0.8 percent of their body weight while the national sample gained 0.3 percent. This means that collectively, participants in the county’s program weighed 19 tons less than what they would have weighed if they had continued to gain weight like comparable US employees. Over five years, more than 2,000 overweight or obese King County employees lost at least five percent of their weight, the point at which research shows significant health improvements.

On average, King County employee weight loss was sustained over time. The mean body mass index (BMI) of King County participants fell in the first year and grew very slowly during the four subsequent years finally hitting a plateau that was lower than where it originated. The comparable national sample gained steadily throughout that time.

Of special interest is that the program was most successful for women, employees older than 60 years, African Americans, and those who did not graduate from college. Nationally, African Americans have the highest mean BMI and fastest BMI growth rate. Yet, from 2006 to 2011, African American Healthy Incentives<sup>SM</sup> participants lost weight at nearly three times the rate of white participants.

In addition to losing weight, employees improved their health in 11 out of 13 areas since the inception of Healthy Incentives<sup>SM</sup>, with a corresponding decrease in their use of health care services. Most notably, the smoking rate among employees decreased by 40 percent, from 10 percent to 6 percent, leading to fewer medical claims for pneumonia, bronchitis and other respiratory illnesses associated with smoking.

### **3.9 Potential Changes Effective in 2013 and Beyond**

The Healthy Incentives<sup>SM</sup> program that is currently in place for King County’s employees and their spouses/domestic partners is subject to change through the bargaining process. As such, this RFP will seek to identify a proposer who is capable of administering the current incentive program and capable of administering new programs or incentives that may be negotiated with the county’s labor unions.

The county may, by issuing addenda, modify the requirements of the RFP, the evaluation criteria or elect to change the effective date of services based upon the outcome of labor negotiations. The county further reserves the right to change the eligible population based on bargaining unit or health plan selection as needed depending on the outcome of labor

negotiations. Details on the eligible population and potential changes to the eligible population are included in Section 3.2 above.

The county expects to continue to identify new IAPs for inclusion in the Healthy Incentives<sup>SM</sup> program. The awarded proposer shall be required to work with the county on integration of new IAPs throughout the term of the agreement. The county may also work with the awarded proposer to develop or otherwise identify new IAPs throughout the term of the agreement. The county expects to utilize all vendors currently under contract with the county to explore additions for inclusion in the Healthy Incentives<sup>SM</sup> program as IAPs, with specific focus on existing benefits vendors such as the county's medical plan administrators. The county reserves the right to add requirements to the awarded contract as it relates to the addition of new IAPs and also reserves the right to modify the eligible population as a result of these efforts as noted in Section 3.2 above. Proposers submitting proposals which require minimum enrollment or eligibility requirements must identify any relevant thresholds in their pricing proposal.

### **3.10 Requirements**

The awarded proposer to administer the Healthy Incentives<sup>SM</sup> program shall be required to offer a custom online wellness portal for the Healthy Incentives<sup>SM</sup> program, an online and paper format for both HRA and IAPs and all incentive administration and reporting elements of the program.

The portal shall allow members to register for the program, take their HRA, select from the available IAPs (including IAPs offered by the awarded proposer and the IAPs administered by outside vendors and the county), complete their IAP, and track their progress or earned incentives through the program. Wellness coaching should be available on a non-incented basis to assist members in meeting their health goals as they complete their IAPs.

Participants selecting IAPs offered by the awarded proposer shall be able to immediately access the IAPs online or request paper IAPs to be sent to their homes. Participants selecting IAPs offered by outside vendors or the County shall be directed to outside program websites where participants will register for and complete their IAPs. Outside vendors shall be expected to report program completion back to the awarded vendor for the purposes of updating the wellness portal and calculating overall incentives.

The available IAPs will be determined by the programs offered by the awarded proposer, and shall also include programs administered by the county and by other third party vendors.

- Self-guided online programs – may be offered by the awarded proposer or the county may elect to issue a solicitation for a third party proposer.
- Self-guided paper programs – may be offered by the awarded proposer or the county may elect to issue a solicitation for a third party proposer.
- Coaching based tobacco cessation program - may be offered by the awarded proposer or the county may elect to issue a solicitation for a third party proposer.
- Team-based Live Well Challenge – administered by King County
- King County Parks Fitness Challenge – administered by King County
- Disease Management programs - administered by the county's health plan administrators
- Other individual action plans – may be offered by the awarded proposer or the county may elect to issue a solicitation for a third party proposer.

The awarded proposer shall be required to track and report earned incentives to members through the online portal for each of the IAPs listed above through reporting interfaces/exchanges with each of the existing program administrators and any additional programs that King County selects during the term of the agreement. The county will evaluate the integration capabilities and experience of each proposer seeking to administer the incentive program as part of this RFP.

The custom cobranded portal shall be designed to clearly communicate earned incentives to members and direct them to the next step in the program each time they log-in to the site. Additional features of the portal may include integrated wellness related content, supplemental assessments and wellness tools. The core evaluation shall focus upon the custom portal and the manner in which members navigate the site as they earn the incentives within the Healthy Incentives<sup>SM</sup> program.

The health improvement/coaching programs shall include physical activity, nutrition and other wellness programs and supportive wellness coaching for participating members upon request. The awarded proposer shall be required to support online and telephonic customer service support for members participating in the program.

The HRA and individual action plans shall be available to all eligible King County employees, spouses and domestic partners, including COBRA and non-Medicare retirees upon request. The health risk assessment and individual action plan program are offered on an annual basis and participation in these programs determines plan eligibility for the following year as outlined in this RFP. The effective date for the health risk assessment and individual action plans will be January 1, 2013 and the term of the Contract will run through December 31, 2017.

### **3.11 Proposal Questionnaires**

The proposal questionnaires are split up into discrete sections based on the services and requirements of the RFP outlined below and described in Section 3.9 above. The questionnaires corresponding to each component of the Healthy Incentives<sup>SM</sup> program are as follows:

1. Exhibit A - Company Background Questionnaire
2. Exhibit B - Health Risk Assessment Questionnaire
3. Exhibit C - Incentive Administration Questionnaire
4. Exhibit D - Individual Action Plan Questionnaire

All proposers shall submit each of the above listed questionnaires, Exhibits A – D with their proposals. Failure to submit all questionnaires may render the proposal unresponsive. The county will not consider proposals for any sections of the RFP as stand-alone services.

#### **A. Questionnaire Instructions**

Each of the questionnaires included with this RFP pose questions about your organization and your specific capabilities to provide the specific services required to administer the specific requirement of the program. Proposers are expected to thoroughly respond the questions in each section providing exceptions where appropriate. The questions marked with the “Minimum Requirement” indicator establish a baseline of services required to meet the needs of the Healthy Incentives<sup>SM</sup> program. The county may, at its discretion, eliminate proposals from further consideration based upon responses to the questions identified as “Minimum Requirements” alone. Note that responses to all questions must be contained in the tables provided. In the event that attachments are required to supplement your response to a given

question, the title of the attachment should be included along with the response to the question in the provided table. Attachments referenced within the questionnaire without addressing the question in the provided tables will not be considered. The end of each questionnaire includes a list of required attachments to support your responses to the questions for that section of the RFP. Each section of the RFP must include a completed questionnaire and must be submitted with the required supplemental attachments to be considered complete and responsive.

**B. Executive Summary**

Each proposal submitted in response to this RFP shall include a two page Executive Summary of your proposal for the King County Healthy Incentives<sup>SM</sup> program. Executive Summaries should introduce your organization, describe your understanding of the program and its goals, and identify the reasons that King County should select your proposal to achieve those goals.

**C. RFP Exhibits**

Each of the RFP Exhibits listed below are referenced within the RFP and are required for reference in order to complete the various RFP questionnaires. These Exhibits have been posted to the King County procurement website along with each of the Questionnaires and other RFP documents.

1. Exhibit E – King County Business Associate Agreement
2. Exhibit F – King County Employee and Third Party Policy for Information Technology Security and Privacy
3. Exhibit G – King County Acknowledgement of IT Security Responsibilities and Confidentiality Guidelines
4. Exhibit H – King County Password Management Policy
5. Exhibit I – King County logos

**3.12 Proposal Content Requirements**

**A. Contents**

Each submitted proposal shall contain the documents listed below. Proposals should include section tabs with the names of each section listed which should correspond to the titles in the list as follows:

1. Executive Summary
2. RFP Questionnaires and Attachments
  - Exhibit A – Company Background Questionnaire
    - Attachment A – Audited financial statements
    - Attachment B – Account management organizational chart
    - Attachment C – Proposed annual account management satisfaction survey
    - Attachment D – Red-lined Business Associate Agreement (if applicable)
  - Exhibit C – Incentive Administration Questionnaire
    - Attachment E – Homepage mock-ups
    - Attachment F – Customizable elements of homepage (if applicable)
    - Attachment G – IAP selection page mock-up

- Attachment H – Sample communications plan
  - Attachment I – Standard incentive and engagement reporting package
  - Attachment J – Operations and customer service organizational chart
  - Attachment K – Sample operations manual
  - Attachment L – Proposed member satisfaction survey
  - Attachment M – Detailed implementation plan
  - Attachment N – Proposed post-implementation survey
  - Exhibit B – Health Risk Assessment Questionnaire
    - Attachment O – Online health risk assessment user experience screenshots
    - Attachment P – Online health risk assessment demonstration site usernames and passwords
    - Attachment Q – Paper health risk assessment
    - Attachment R – List of optional health risk assessment questions
    - Attachment S – IVR health risk assessment demonstration usernames and passwords (if applicable)
    - Attachment T – Standard health risk assessment aggregate reporting package
    - Attachment U – Health risk assessment raw data file specifications
  - Exhibit D – Individual Action Plan Questionnaire
    - Attachment V – List of rewardable actions
    - Attachment W – Online individual action plan screenshots
    - Attachment X – Online individual action plan demonstration site usernames and passwords
    - Attachment Y – Mobile application screenshots (if applicable)
    - Attachment Z – Mobile application testing instructions (if applicable)
    - Attachment AA – Paper individual action plans
    - Attachment BB – Standard individual action plan reporting package
  - Additional brochures, booklets or other sales materials may be sent separately from proposals but should not be included along with the proposal itself, including as part of the electronic copies detailed in Section 3.12 (B) (3) below.
3. Exhibit J – Price and Performance Guarantees Form
4. RFP Forms and Other Attachments
- RFP Forms – Section 1.15 of the RFP identifies a number of required forms and attachments which must be included with your proposal.
    - Sample Contract – Attachment A of the RFP is the sample contract for the services outlined in this RFP. A red-lined or tracked-changes copy of the sample contract shall be submitted with your proposal and accompanied by a

cover letter detailing the rationale for edits on a section by section basis. The cover letter should be written by the representative within your organization who will be responsible for negotiation of the final contract language in the event that your proposal is selected for award of the contract.

B. Copies

1. Paper Copies of Proposals

Proposers shall submit three (3) bound paper copies of the proposal and attachments. One original copy of the proposal shall be unbound and marked "ORIGINAL" to facilitate reproduction. Paper copies of the proposal shall be limited to the documents listed in Section 3.12, A above and shall not include additional brochures, booklets or other sales materials that are not specifically requested in the RFP.

2. Electronic Copies of Proposals

In addition to the paper copies, proposers shall submit 8 CD-ROM discs or sets of discs (as required) with electronic copies of the full proposal including all requested exhibits and attachments, in their native formats. All files on the discs shall be clearly labeled to match paper copies. PDFs of proposer-created documents are acceptable.

3. Supplemental Information

The county's preferred method is to receive supplemental information in electronic format. Electronic copies of additional brochures, booklets or other sales materials that are not specifically requested in the RFP may be submitted on separate discs in suitable format and labeled as such. Label these discs as 'Supplemental Information'.

Paper copies of additional brochures, booklets or other sales materials, not available in electronic format, and are not specifically requested in the RFP may be submitted unbound, separate than the proposal and labeled as 'Supplemental Information'.



**THIS CONTRACT #** \_\_\_\_\_ ("Contract") is entered into by **KING COUNTY**, Washington,, (the "County"), and \_\_\_\_\_ (the "Contractor"), whose address is \_\_\_\_\_. The County is undertaking certain activities related to, \_\_\_\_\_ and, the County desires to engage the Contractor to provide Work in connection with such undertakings of the County,

**NOW, THEREFORE**, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and do mutually agree as follows:

**I. CONTRACT DOCUMENTS**

The Contractor shall provide all Work described in this Contract, which consists of the following documents and attached exhibits, each of which are made a part hereof by this reference in the following order of precedence:

4. Contract Amendment(s)
5. Contract, which consists of this page, the Terms and Conditions, and the following:
  - ☐ Scope of Work .....Exhibit A
  - ☐ Price Attachment.....Exhibit B
  - ☐ Consultant Disclosure Form (if applicable)..... Exhibit C
  - ☐ Certificate(s) of Insurance and Policy Endorsement ..... Exhibit D
  - ☐ Other Exhibits and attachments (if applicable)
6. Request for Proposal (as modified by any addenda)
7. Contractor's Proposal

**II. CONTRACT TERM**

This Contract shall be effective when countersigned by King County and shall expire on \_\_\_\_\_, unless extended or terminated earlier pursuant to the terms and conditions of this Contract.

**III. CONTRACT AMOUNT**

The County shall reimburse the Contractor upon Acceptance of the Work specified in this Contract in an estimated annual amount payable as set forth in Exhibit B.

**COMPANY NAME**

---

Authorized Signature

---

Name and Title (Print or Type)

Date

Accepted: \_\_\_\_\_

**KING COUNTY**

---

Authorized Signature

---

Name and Title (Print or Type)

Date

Accepted: \_\_\_\_\_

Approved as to form only:

King County Prosecuting Attorney



## TERMS AND CONDITIONS

### SECTION 4 DEFINITIONS

#### 4.1 Definitions

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

Acceptance or Accepted: A written determination by the County that the Contractor has completed the Work in accordance with the Contract.

Contract Amendment: A written change to the Contract modifying, deleting or adding to the terms and conditions or Scope of Work, signed by both parties, with or without notice to the sureties.

Contractor: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with the County for the performance of Work under the Contract.

Day: Calendar day.

KCC: The King County Code.

Person: Includes individuals, associations, firms, companies, corporations, partnerships, and joint ventures.

Project Manager: The individual designated by the County to manage the project on a daily basis and who may represent the County for Contract administration.

RCW: The Revised Code of Washington.

Scope of Work (SOW): An exhibit to the Contract consisting of a written description of the Work to be performed.

Subcontractor: The individual, association, partnership, firm, company, corporation, or joint venture entering into an agreement with the Contractor to perform any portion of the Work covered by this Contract.

Work: Everything to be provided and done for the fulfillment of the Contract and shall include services, goods and supplies specified under this Contract, including Contract Amendments.

### SECTION 5 GENERAL PROVISIONS

#### 5.1 Administration

The Contractor shall be responsible for performing the Work. The County is not a party to defining the division of Work between the Contractor and its Subcontractors, if any.

The Contractor represents that it has or shall obtain all personnel, materials and equipment required to perform the Work under this Contract.

#### 5.2 Acceptance Process for Initial System Configuration

Upon completion of the base configuration of the Work, the Contractor will give the County "notice of completion" of Work in accordance with the requirements in the Contract for initial system configuration.

A. The Acceptance process will commence. Acceptance shall be based on conformance with the Scope of Work for Initial System Configuration. After notice by Contractor of completion of the Initial

System Configuration, County will issue a written notice of Acceptance or Provide Contractor with a notification of rejection, which will include documentation of the specific grounds for the rejection, outlining items not in compliance with the deliverables.

- B. Correction of Deficiencies Process. If a deliverable is rejected, Contractor will have a commercially practicable time to correct items documented in the County's notification of rejection. Following the receipt of Contractors' notice that the Work has been corrected, the County will issue a written notice of Acceptance or provide Contractor with a notification of rejection, which will include documentation of the specific grounds for the rejection, outlining Work not in compliance with the milestone. The project schedule will be adjusted accordingly in the event that a dispute regarding the method or accuracy of the correction causes a delay. If the deliverable(s) fails to comply with the milestone after Contractor's second attempt to correct the Work and no clear plan can be agreed upon between the County Project Manager and the Contractor's Project Manager, the County will determine the appropriate corrective action(s) up to and, including declaring a breach of Contract.

### **5.3 Final Acceptance Process for Initial System Configuration**

The County shall begin the Final Acceptance process as follows:

- A. The parties shall agree on the start date for the Acceptance test.
- B. The Acceptance test shall include fifteen (15) business days of continuous operation of the Work without material defect in accordance with the Contract in the County's fully implemented production environment.
- C. If the County Accepts the Work, the County will send a notice of Final Acceptance to the Contractor.
- D. If the County determines that the Work is not Acceptable, the County shall notify the Contractor in writing, describing the deficiencies.
- E. The Contractor shall either Provide a detailed, written plan to achieve Final Acceptance or to make corrections or replacements within a mutually agreed upon time period. The parties shall mutually agree on a start date for beginning another Acceptance test.
- F. Another fifteen (15) Day successful operation period shall follow any corrections or replacements to the Work.
- G. If the County Accepts the Work following a second or subsequent Acceptance test the County will send a notice of Final Acceptance to the Contractor.
- H. If the Contractor does not correct or replace the unacceptable Work the County may declare a breach of Contract.

### **5.4 Warranty**

- A. No Waiver of Warranties and Contract Rights Conducting of tests and inspections, review of Scope of Work or plans, payment for Work, or Acceptance or Final Acceptance of the Work by the County shall not constitute a waiver of any rights under this Contract or in law. The termination of this Contract shall in no way relieve the Contractor from its warranty/guarantee responsibility.
- B. The Contractor warrants that the Work performed under this Contract shall be free from defects in material and workmanship, and shall conform all requirements of this Contract. Any Work corrected shall be subject to this section to the same extent as the Work initially Provided.

- C. Warranty Applicable to Third Party Suppliers, Vendors, Distributors and Subcontractors  
The Contractor shall ensure that the warranty requirements of this Contract are enforceable through and against the Contractor's suppliers, vendors, distributors and Subcontractors. The Contractor is responsible for liability and expense caused by any inconsistencies or differences between the warranties extended to the County by the Contractor and those extended to the Contractor by its suppliers, vendors, distributors and Subcontractors. Such inconsistency or difference shall not excuse the Contractor's full compliance with its obligations under this Contract. The Contractor shall cooperate with the County in facilitating warranty related Work by such suppliers, vendors, distributors and Subcontractors

## **5.5 Express Warranties for Service**

- A. Contractor warrants that during the Contract term, the Service Provided hereunder shall be free from significant programming Errors and when used in accordance with this Contract shall operate and conform to the Scope of Work, performance capabilities, functions and other descriptions and standards as identified in this Contract and all supplemental information Provided by Contractor.
- B. Contractor warrants that it has full power and authority to license or sublicense the Service to the County without the consent of any other Person.
- C. Contractor warrants that the Service, the License to the County to use the Service, instructions for use of the Service, Documentation and the performance by Contractor of the Services, shall be in compliance with all applicable laws, rules and regulations.
- D. Contractor warrants the tapes, CD's, DVD's or other media delivered to the County to be free of defects in materials and workmanship under normal use for sixty (60) Days from the date of receipt by the County.
- E. Contractor warrants that the Service Provided is free from intentional Viruses, disabling code or other intentional programming defects. Prohibited intentional programming defects include, but are not limited to, features such as "backdoor shutdown mechanisms", "time bombs", "automatic unauthorized connection to outside systems", programming that responds to or Provides information to outside systems' "pinging", and features that can "retire", "shut down", "cripple" or "stop" the Service. Contractor further warrants that neither the Service alone or through Contract with the Contractor is capable of electronic self-help that may deprive the County of the use of the licensed Service.
- F. Contractor warrants that future maintenance or Service releases shall not degrade the Service, cause a breach of any other warranty or require the County to purchase new or additional hardware or Service for continued operation of the Service.
- G. The Contractor warrants functionality as described in the Scope of Work and represents that the configuration identified in the Contract has been specifically selected and designed for the County as being an operationally efficient integration of hardware, Service and Services.
- H. Contractor shall be responsible for Providing and implementing a Service system that is successfully integrated into the existing system environment of the County and meets the functional requirements as specified in this Contract.

- I. The Express Warranties Set Forth In This Section Are In Lieu Of All Other Warranties, Express Or Implied, Including But Not Limited To The Implied Warranties Of Merchantability And Fitness For A Particular Purpose.

## **5.6 Defective Work**

Prior to the County's use of the Service, when and as often as the County determines that the Work, furnished under the Contract is not fully and completely in accordance with any requirement of the Contract, it may give notice and description of such non-compliance to the Contractor. Within ten (10) business Days of receiving such written notification, the Contractor shall supply the County with a detailed, written plan which indicates the time and methods needed to bring the Work in compliance with the Contract. The County may reject or accept this plan at its discretion. If the County rejects the plan the Contractor may be determined to be in material default of the Contract. This procedure to remedy defects is not intended to limit or preclude any other remedies available to the County by law, including those available under the Uniform Commercial Code, Title 62A RCW.

## **5.7 Payment Procedures; Prompt Payment of Subcontractors**

For Work Accepted by the County the Contractor shall furnish invoices to King County Accounts Payable, M/S MLK-ES-0320, 401 – Fifth Avenue, Seattle, WA 98104. All invoices shall include: purchase order and/or contract number, invoice date, number, and total. For each item invoiced, provide the complete description of the products, services, phases or milestones Accepted, hours worked and Contract hourly rates, or authorized fees.

The County will not be bound by prices contained in an invoice that are higher than those in Exhibit B, or if not used as part of this Contract, then the current price list for this Contract approved by the County. Within thirty (30) Days after receipt of an invoice, the County shall pay the Contractor for Accepted Work, upon acceptance of payment Contractor waives any claims for the Work covered by the invoice.

If the Contractor is registered with the State of Washington it shall add all applicable State sales or use taxes to each invoice and upon receipt of the payment promptly remit appropriate amounts to the State of Washington, or the County will make payment directly to the State.

The Contractor agrees to pay each Subcontractor under this Contract for satisfactory performance of its Subcontract within ten (10) Days from the receipt of each payment the Contractor receives from the County.

## **5.8 Pricing**

Prices shall remain firm for the duration of the Contract. The Contractor may request a price change(s) in writing delivered to the county. The Contractor shall provide documentation satisfactory to the County in support of its request, such as changes to the Producers Price Index for the commodity, the Consumer Price Index for the Seattle-Tacoma-Bremerton area, or a manufacturer's published notification of price change(s). The County reserves the right, in its sole discretion, to grant the request as submitted, engage the Contractor in a discussion about modifications to the request, or deny the request in its entirety. Any change in pricing granted by the County shall be affected through a Contract Amendment instituting the price adjustment and establishing an effective date.

## **5.9 Shipping Charges**

All prices shall include freight FOB to the designated delivery point. The County shall reject requests for additional compensation for freight charges.

## **5.10 Contract Amendment**

All changes to the Contract shall be made in writing through a Contract Amendment. No oral statement or other conduct by the County shall change or modify the Contract. The County may perform an analysis of cost, price or schedule to determine the reasonableness of the proposed change to the Contract.

## **5.11 Changed Requirements**

New federal, state and county laws, regulations, ordinances, policies and administrative practices may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing requirements, the Contractor agrees to accept all changed requirements that apply to this Contract and require Subcontractors to comply with revised requirements as well. Changed requirements shall be implemented through Section 2.7, Contract Amendment.

## **5.12 Taxes, Licenses, and Certificate Requirements**

If, for any reason, the Contractor's required licenses or certificates are terminated, suspended, revoked or in any manner modified from their status at the time this Contract becomes effective, the Contractor shall notify the County immediately of such condition in writing. The Contractor and Subcontractor(s) shall maintain and be liable for payment of all applicable taxes (except sales/use taxes), fees, licenses permits and costs as may be required by applicable federal, state or local laws and regulations as may be required to provide the Work under this Contract.

## **5.13 Notices**

Unless otherwise specified in the Contract, all notices or documentation required or provided pursuant to this Contract shall be in writing and shall be deemed duly given when received at the addresses first set forth below via certified or registered first class mail, return receipt requested, personal delivery or electronic mail. However, if any of the following occur: "notice to cure" a default, Contractor communication in connection with an alleged default, or notice of termination, such notice or communication shall only be delivered personally, or by certified or registered first class mail, return receipt requested.

<b>KING COUNTY</b>	<b>CONTRACTOR</b>
Project Manager -	
Seattle, WA	
206-	
<a href="mailto:xxxxxx@kingcounty.gov">xxxxxx@kingcounty.gov</a>	

## **SECTION 6 LEGAL RELATIONS; INDEMNITY AND INSURANCE**

### **6.1 Independent Status of Contractor**

In the performance of this Contract, the parties shall be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent contractor relationship shall be created

by this Contract. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, wages, benefits, or other compensation by or on behalf of the Contractor and its employees. The Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW or Title 51 RCW.

## **6.2 Indemnification and Hold Harmless**

### **A. Patent and Copyright Indemnity**

The Contractor shall protect, indemnify, defend and save harmless the County from any and all claims or lawsuits alleging a violation of a third party's copyright or patent rights. So long as the County gives Contractor prompt notice of any infringement claim brought against the County regarding the Service and the County gives Contractor information, reasonable assistance, and sole authority to defend or settle any infringement claim, then, in the defense or settlement of an infringement claim, Contractor shall, in its reasonable judgment and at its option and expense: (i) obtain for the County the right to continue using the Service; (ii) replace or modify the Service so that it becomes noninfringing while giving equivalent performance; or (iii) if Contractor cannot obtain the remedies in (i) or (ii), the parties may proceed to a court of competent jurisdiction to determine the amount of fees that shall be returned to the County. Before final payment is made on this Contract, the Contractor shall, if requested by the County, furnish acceptable proof of a proper release from all such fees or claims. Contractor shall have no liability to indemnify or defend the County to the extent the alleged infringement is based on: (i) a modification of the Service the County or others authorized by the County but not by the Contractor; or (ii) use of the Service by other than in accordance with the Documentation. If the County is required to defend itself or enter into a settlement agreement due to Contractor's failure to defend, Contractor shall indemnify the County for its costs and expenses as well as any judgment entered against the County.

### **B. Indemnification For All Other Actions**

Contractor shall protect, defend, indemnify and save harmless the County, its officers, employees and agents from any and all costs, claims, judgments, and/or awards of damages for injuries to Persons and/or damage to tangible property, arising out of or in any way resulting from the acts or omissions of the Contractor its officers, employees, Subcontractors and/or agents. Contractor's indemnification obligation shall include but is not limited to, all claims against the County by an employee or former employee of the Contractor or its Subcontractors, and the Contractor expressly waives by mutual negotiation, with respect to the County only, all immunity and limitation on liability under any industrial insurance act, including Title 51 RCW, other worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. In the event the County incurs any costs including attorneys' fees to enforce the provisions of this paragraph, all such costs and fees shall be recoverable from the Indemnitor.

### **C. Limitation of Liability**

Except for the County's intentional and willful violations of Contractor's intellectual or proprietary rights, which can be attributed to the County management, and injuries to persons by either party, neither party shall be liable for any indirect, incidental, special or consequential damages, including but not limited to lost data or profits, however arising, even if it has been advised of the possibility of such damages. Excluding damages incurred under the paragraphs A and B, either party's liability for damages to the other under this

Contract shall be limited to 1.5 times the value of the Contract or five million dollars (\$5,000,000) whichever is greater. The parties agree to the allocation of liability of risk set forth in this paragraph

### **6.3 Insurance Requirements**

Upon execution of this Contract, the Contractor, at its own cost, shall have procured and will maintain for the duration of this Contract, insurance as specified in the Minimum Scope and Limits of Insurance. The Contractor shall furnish the County with certificates of insurance and endorsements required by this Contract. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

Each insurance policy shall be written on an "occurrence" form; except that professional liability, errors and omissions, will be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the Work which is the subject of this Contract.

By requiring such minimum insurance coverage, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.

#### **A. Minimum Scope and Limits of Insurance**

The Contractor shall maintain limits no less than,

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations
2. Professional Liability, Errors and Omissions: \$1,000,000 Per Claim and in the Aggregate
3. Workers' Compensation: Statutory requirements of the State of residency, and
4. Employers' Liability or "Stop Gap" coverage: \$1,000,000

#### **B. Other Insurance Provisions and Requirements**

The insurance coverage(s) required in this Contract are to contain, or be endorsed to contain the following provisions:

All Liability Policies except Workers Compensation and Professional Liability:

1. The County, its officers, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Contract. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees

and agents. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2010 11/85" or its equivalent is required. **The County requires this Endorsement to complete the Contract.**

All Policies:

1. The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
2. Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor
3. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, until after forty-five (45) Days prior written notice, has been given to the County.
4. Insurance coverage is to be placed with insurers with a Bests' rating of no less than A: VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors and Omissions insurance coverage may be placed with insurers with a Bests' rating of B+:VII. Any exception must be approved by the County.

If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

C. Subcontractors

The Contractor shall include all Subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. **Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Contract not provided by the Contractor, shall be subject to all of the requirements stated herein.**

D. Work Site Safety

The Contractor shall have the "right to control" and bear the sole responsibility for the job site conditions, and job site safety. The Contractor shall comply with all applicable federal, state and local safety regulations governing the job site, employees and Subcontractors. The Contractor shall be responsible for the Subcontractor's compliance with these provisions.

## **SECTION 7 CONFLICTS OF INTEREST AND NON-COMPETITIVE PRACTICES**

### **7.1 Conflicts of Interest and Non-Competitive Practices**

- A. Conflict of Interest - By entering into this Contract to perform Work, the Contractor represents that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, that conflicts in any manner or degree with the Work required to be performed under this Contract. The Contractor shall not employ any



Person or agent having any conflict of interest. In the event that the Contractor or its agents, employees or officers hereafter acquires such a conflict of interest, it shall immediately disclose such conflict to the County. The County shall require that the Contractor take immediate action to eliminate the conflict.

- B. Contingent Fees and Gratuities - By entering into this Contract to perform Work, the Contractor represents that:
1. No Persons except as designated by Contractor shall be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid.
  2. No gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any of its officers, agents, employees or representatives, to any official, member or employee of the County or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.
  3. Any Person having an existing contract with the County or seeking to obtain a contract who willfully attempts to secure preferential treatment in his or her dealings with the County by offering any valuable consideration, thing or promise, in any form to any County official or employee shall have his or her current contracts with the County canceled and shall not be able to bid on any other County contracts for a period of two (2) years.
- C. Disclosure of Current and Former County Employees - To avoid any actual or potential conflict of interest or unethical conduct:
1. County employees or former County employees are prohibited from assisting with the preparation of proposals or contracting with, influencing, advocating, advising or consulting with a third party, including Contractor, while employed by the County or within one (1) year after leaving County employment if he/she participated in determining the Work to be done or processes to be followed while a County employee.
  2. Contractor shall identify at the time of offer current or former County employees involved in the preparation of proposals or the anticipated performance of Work if awarded the Contract. Failure to identify current or former County employees involved in this Contract may result in termination of this Contract.
  3. After Contract award, the Contractor is responsible for notifying the County's Project Manager of current or former County employees who may become involved in the Contract any time during the term of the Contract.

## **SECTION 8        RECORDS AND AUDITS**

### **8.1     Retention of Records, Audit Access and Proof of Compliance with Contract**

A.     Retention of Records

The Contractor and its Subcontractors shall maintain books, records and documents of its performance under this Contract in accordance with generally accepted accounting principles. The Contractor shall retain for six (6) years after the date of final payment under the Contract all financial information, data and records for all Work.

## **B. Audit Access**

The Contractor shall provide access to its facilities, including those of any Subcontractors, to the County, the state and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the Work provided under this Contract. The County shall give reasonable notice to the Contractor of the date on which the audit shall begin.

### **8.2 Audit Exception**

The Contractor agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception that occurs due to the negligence, intentional act and/or failure for any reason to comply with the terms of this Contract by the Contractor, its officers, employees, agents, and/or representatives. This duty to repay shall survive the expiration or termination of this Contract.

### **8.3 Federal Funding Audit**

If the Contractor expended a total of \$500,000.00 or more in federal awards during its fiscal year, and is a non-profit organization, and is, under this Contract, carrying out or administering a program or portion of a program, it shall have an independent audit conducted in accordance with OMB Circular A-133, which shall comply with the requirements of GAAS (generally accepted auditing standards), GAO's Government Audit Standards and OMB Circular A-133, as amended and as applicable. Contractors expending federal awards from more than one source shall be responsible for determining if the combined financial awards are equal to or greater than \$500,000.00. The Contractor shall provide one copy of the audit report to each County division providing federal awards to the Contractor no later than nine (9) months subsequent to the end of the Contractor's fiscal year.

### **8.4 Public Records Requests**

This Contract shall be considered a public document and will be available for inspection and copying by the public in accordance with the Public Records Act, chapter 42.56 RCW (the "Act").

If the Contractor considers any portion of any record provided to the County under this Contract, whether in electronic or hard copy form, to be protected under law, the Contractor shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If a request is made for disclosure of such portion, the County will determine whether the material should be made available under the Act. If the County determines that the material is subject to disclosure, the County will notify the Contractor of the request and allow the Contractor ten (10) business days to take whatever action it deems necessary to protect its interests. If the Contractor fails or neglects to take such action within said period, the County will release the portions of record(s) deemed by the County to be subject to disclosure. The County shall not be liable to the Contractor for inadvertently releasing records pursuant to a disclosure request not clearly identified by the Contractor as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET."

## **SECTION 9 INTELLECTUAL PROPERTY**

### **9.1 Patents, Copyrights and Rights in Subject Data**

Any patentable result or materials suitable for copyright arising out of this Contract shall be owned and retained by the County. The County in its sole discretion shall determine whether it is in the public's interest to release or make available any patent or copyright.

The Contractor agrees that the ownership of any plans, drawing, designs, Scope of Work, computer programs, technical reports, operating manuals, calculations, notes and other work submitted or which is specified to be delivered under this Contract, whether or not complete (referred to in this subsection as "Subject Data") shall be vested in the County.

All such Subject Data furnished by the Contractor pursuant to this Contract, other than documents exclusively for internal use by the County, shall carry such notations on the front cover or a title page (or in such case of maps, in the name block), as may be requested by the County. The Contractor shall also place its endorsement on all Contractor-furnished Subject Data. All such identification details shall be subject to approval by the County prior to printing.

The Contractor shall ensure that the substance of foregoing subsections is included in each subcontract for the Work under this Contract.

## **9.2 Nondisclosure of Data**

Data provided by the County either before or after Contract award shall only be used for its intended purpose. Contractors and Subcontractors shall not utilize nor distribute the County data in any form without the prior express written approval of the County.

## **9.3 Non-Disclosure Obligation**

While performing the Work under this Contract, the Contractor may encounter personal information, licensed technology, drawings, schematics, manuals, data and other materials described as "Confidential", "Proprietary" or "Business Secret". The Contractor shall not disclose or publish the information and material received or used in performance of this Contract. This obligation is perpetual. The Contract imposes no obligation upon the Contractor with respect to confidential information which the Contractor can establish that: a) was in the possession of, or was rightfully known by the Contractor without an obligation to maintain its confidentiality prior to receipt from the County or a third party; b) is or becomes generally known to the public without violation of this Contract; c) is obtained by the Contractor in good faith from a third party having the right to disclose it without an obligation of confidentiality; or, d) is independently developed by the Contractor without the participation of individuals who have had access to the County's or the third party's confidential information. If the Contractor is required by law to disclose confidential information the Contractor shall notify the County of such requirement prior to disclosure.

## **9.4 Service License**

Subject to the terms and conditions set forth in this Contract, including payment of the license fees by County to Contractor, Contractor hereby grants to County a non-exclusive, non-transferable license to use the Service during the term of this Contract, as well as any Documentation and training materials.

## **9.5 Importation of Data**

Within sixty (60) Days of notification of termination of this Contract, the Contractor shall provide the County with dedicated data files suitable for importation into commercially available database software (e.g. MS-Access or MS-SQL). The dedicated data files will be comprised of County's data contained in the Contractor's system. The structure of the relational database will be specific to the County's data and will not be representative of the proprietary Contractor database.

## **9.6 Enhancements, Upgrades, Replacements and New Versions of Service.**

- A. The Contractor agrees to Provide to the County, at no cost, prior to, and during installation and implementation of the system any Service/firmware Enhancements, Upgrades and replacements which the Contractor initiates or generates that are within the scope of the products licensed and that are made available at no charge to other Contractor customers.
- B. During the term of this Contract, the Contractor shall notify the County of the availability of newer versions of the Service and within thirty (30) Days Provide the County with this new version. The Contractor shall Provide any Updated Documentation in the form of new revision manuals or changed pages to current manuals consistent with the original Documentation supplied and reflecting the changes included in the new version of the Service as they are made available. The Contractor shall also Provide installation instructions, procedures and any installation program required by the Enhancement, Upgrade, Replacement or New Versions of the Service.

## **SECTION 10 NONDISCRIMINATION**

### **10.1 Nondiscrimination and Equal Employment Opportunity**

#### **A. Nondiscrimination in Employment**

During performance of this Contract, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of the employee or applicant's sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

#### **B. Equal Employment Opportunity Efforts**

The Contractor will undertake, and require all Subcontractors to undertake equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age. Equal employment opportunity efforts shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The Contractor agrees to post, and to require Subcontractors to post in conspicuous places available to employees and applicants for employment notices setting forth this nondiscrimination clause. In accordance with KCC 12.16.010.J, "equal employment opportunity efforts" shall mean active efforts to ensure equal opportunity in employment that is free from all forms of discrimination.

Ref: KCC 12.16.020.

#### **C. Equal Benefits to Employees with Domestic Partners**

Pursuant to Ordinance 14823, King County's "Equal Benefits" (EB) ordinance, and related administrative rules adopted by the County Executive, as a condition of award of a contract valued at \$25,000 or more, the Contractor agrees that it shall not discriminate in the provision of employee benefits between employees with spouses, and employees with domestic partners during the performance of this Contract. Failure to comply with this provision shall be considered a material breach of this Contract, and may subject the Contractor to administrative sanctions and remedies for breach.

When the contract is valued at \$25,000 or more, the Contractor shall complete a Worksheet and Declaration form for County review and acceptance prior to Contract execution. The EB Compliance forms, Ordinance 14823 (which is codified at KCC Chapter 12.19), and related administrative rules are incorporated herein by reference. They are also available online at:

[http://www.kingcounty.gov/operations/procurement/Services/Equal\\_Benefits.aspx](http://www.kingcounty.gov/operations/procurement/Services/Equal_Benefits.aspx)

D. Nondiscrimination in Subcontracting Practices.

During the term of this Contract, the Contractor shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate against any person because of their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

E. Compliance with Laws and Regulations.

The Contractor and all Subcontractors shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit discrimination. These laws include, but are not limited to, Chapter 49.60 RCW, Titles VI and VII of the Civil Rights Act of 1964, the American with Disabilities Act, and the Restoration Act of 1987. KCC chapters 12.16, 12.17 and 12.18 are incorporated herein by reference and the requirements in these code sections shall specifically apply to this Contract. The Contractor and all Subcontractors shall further comply fully with any equal opportunity requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents.

F. Small Contractors and Suppliers Policy.

**Policy.** It is King County policy that Small Contractors and Suppliers (SCS) have equitable opportunities to participate in the performance of goods and services contracts issued by King County, and that contractors and subcontractors shall afford equal opportunity in employment while providing supplies and services for and to King County.

**Inquiries and Information Regarding King County Certified SCS Firms.** Direct inquiries on how to apply for SCS certification, or obtain a list of King County Certified Firms to the King County Business Development and Contract Compliance (BDCC) office by telephone at 206-263-9734. Information about becoming a King County Certified SCS Firm, as well as a Directory of King County Certified Firms is available at:

<http://www.kingcounty.gov/bdcc>.

**Definitions.** The following definitions shall apply throughout this Section.

1. "Administrator" means the Director of Finance.
2. "Certified SCS Firm" means a business that has applied for participation in King County's Contracting Opportunities Program, and has been certified as an SCS by the King County BDCC office.
3. "Small Contractor or Supplier" or "(SCS)" means that a business and the person or persons who own and control it are in a financial condition, which puts the business at a substantial disadvantage in attempting to compete for public contracts. The

relevant financial condition for eligibility under the Contracting Opportunities Program is based on a dollar ceiling for standard business classifications that is set at fifty percent (50%) of the Federal Small Business Administration (SBA) small business size standards using the North American Industrial Classification System (NAICS), and an Owners' Personal Net Worth less than \$750K dollars.

G. Required Submittals During Work.

The Contractor shall collect, enter, submit and update the submittals listed below for itself, its Subcontractors and any sub tier Subcontractors and suppliers to BDCC using the Contracts and Apprenticeship Report Tracking Services (CARTS) online reporting website located at <http://www.kingcounty.gov/bdcc>. Report forms are available on the website. Assistance may be obtained by contacting BDCC staff at 206-263-9734.

1. Subcontractor List. The Contractor shall create and maintain a master list of all Subcontractors on this Contract, the Contractor shall continually maintain the Subcontractors and Suppliers.
2. Contractor Payments. The Contractor shall enter and submit the amount received from the County for itself and the amounts paid by the Contractor to all Subcontractors, including Certified SCS Firms. Entries shall be entered in CARTS on a monthly basis.
3. Final Affidavits of Amounts Paid. Upon completion of the Work and as a condition precedent to final payment, the Contractor shall upload a Final Affidavit of Amounts Paid electronically using CARTS. Identify amounts paid to each firm that performed Work on this Contract.

H. Compliance with Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) and the American with Disabilities Act of 1990 as amended (ADA).

Pursuant to Title II of the ADA, and Section 504, King County must not discriminate against people with disabilities in providing services, programs or activities even if those services, programs or activities are carried out by contractors. The Contractor agrees that it shall provide all programs, services, and activities to County employees or members of the public under this Contract in the same manner as King county is obligated to under Title II of the ADA, and Section 504 and shall not deny participation of the benefits of such services, programs, or activities to people with disabilities on the basis of such disability. Failure to comply with this Section 7.1.H shall be a material breach of, and grounds for the immediate termination of, this Contract.

The Contractor agrees to provide to persons with disabilities access to programs, activities and services provided under the Contract, as required by the disability access laws as defined by KCC 12.16.

The Contractor shall not discriminate against persons with disabilities in providing the Work. In any subcontracts for the programs, activities and services under their Contract, the Contractor shall include the requirement that the Subcontractor provide to persons with disabilities access to programs, activities and services provided under the Contract, as required by the disability access laws as defined by KCC 12.16; that the Subcontractor shall not discriminate against persons with disabilities in providing the Work under the Contract; and that the Subcontractor shall provide that the County is a third party beneficiary to that required provision.

- I. Sanctions for Violations - Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of Contract, for which the Contractor may be subject to damages, withholding payment and any other sanctions provided for by Contract and by applicable law.

## **SECTION 11 CLAIMS and APPEALS; DISPUTE RESOLUTION**

### **11.1 Claims and Appeals**

The Contractor shall address claims for additional time or compensation under the Contract in writing to the Buyer and Project Manager within ten (10) Days of the date in which the Contractor knows or should know of the basis for the claim. Claims shall be accompanied by supporting documentation and citation to applicable provisions in the Contract documents. The County reserves the right to request additional documentation necessary to adequately review the claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. The Buyer and Project Manager shall ordinarily respond to the Contractor in writing with a decision issued jointly, but absent such written response, the claim shall be deemed denied upon the tenth (10th) Day following receipt by the Buyer and Project Manager of the claim, or requested additional documentation, whichever is later.

In the event the Contractor disagrees with the determination of the Buyer and Project Manager, the Contractor shall, within five (5) Days of the date of such determination, appeal the determination in writing to the Procurement and Contract Services Section Manager. Such written notice of appeal shall include all information necessary to substantiate the appeal. The Procurement and Contract Services Section Manager shall review the appeal and make a determination in writing, which shall be final. Appeal to the Procurement and Contract Services Section Manager on claims for additional time or compensation shall be a condition precedent to litigation.

At all times, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the direction of the Buyer or Project Manager. Failure to comply precisely with the time deadlines under this Section 8.1 as to any claim and appeal shall operate as a waiver and release of that claim and appeal and an acknowledgment of prejudice to the County.

### **11.2 Mediation and Arbitration**

If a dispute arises out of or relates to this Contract, or the breach thereof, including any Contractor claim, that is not resolved through the required claims and appeal process set forth in Section 8.1, the parties may, upon mutual agreement, endeavor to settle the dispute in an amicable manner by mediation or other agreed form of alternative dispute resolution process prior to commencing litigation.

### **11.3 Applicable Law and Forum**

This Contract shall be governed by and construed according to the laws of the State of Washington. Any claim or suit between the parties arising out of this Contract may only be filed and prosecuted in King County Superior Court or U.S. District for the Western District of Washington, in Seattle.

## **SECTION 12 TERMINATION**

### **12.1 Termination for Convenience/Default/Non-Appropriation**

- A. Termination for Convenience

This Contract may be terminated by the County without cause, in whole or in part, upon providing the Contractor ten (10) Days' advance written notice of the termination. If the Contract is terminated pursuant to this Section 9.1.A, the County will be liable only for payment in accordance with the terms of this Contract for Work performed and Accepted prior to the effective date of termination.

**B. Termination for Default**

If the Contractor does not perform the Work, or the Contractor fails to perform in the manner called for in the Contract, or if the Contractor fails to comply with any material provisions of the Contract, the County may terminate this Contract, in whole or in part, for default as follows:

1. A "notice to cure" shall be served on the Contractor by certified or registered first class mail in accordance with Section 2.10. The Contractor shall have ten (10) Days from the date of receipt to cure the default or provide the County with a detailed written plan for review and acceptance, which indicates the time and methods needed to bring the Work into compliance and cure the default.
2. If the Contractor has not cured the default or the plan to cure the default is not acceptable to the County, the County may terminate the Contract by serving a "notice of termination" in accordance with Section 2.10 setting forth the manner in which the Contractor is in default and the effective date of termination.
3. The Contractor shall only be paid for Work performed and Accepted less any damages to the County caused by or arising from such default. All termination payment requests are subject to an analysis of cost or price by the County to verify compliance with the Contract, applicable laws and regulations.
4. The termination of this Contract shall in no way relieve the Contractor from any of its obligations under this Contract nor limit the rights and remedies of the County hereunder in any manner.

**C. Termination for Non-Appropriation**

1. If expected or actual funding is withdrawn, reduced or limited in any way prior to the termination date set forth in this Contract or in any Contract Amendment hereto, the County may, upon written notice to the Contractor, terminate this Contract in whole or in part.

If the Contract is terminated pursuant to this Section 9.1.C: 1) the County shall be liable only for payment in accordance with the terms of this Contract for Work performed and Accepted prior to the effective date of termination; and, 2) the Contractor shall be released from any obligation under this Contract affected by the termination or a related purchase order to provide further Work pursuant to the Contract.

2. Notwithstanding any provision to the contrary, funding under this Contract beyond the current appropriation year is conditional upon the appropriation by the County Council of sufficient funds to support the Work described in this Contract. Should such an appropriation not be approved, the Contract shall terminate at the close of the current appropriation year.

**SECTION 13 MISCELLANEOUS**



### **13.1 Other Public Agency Orders**

Other federal, state, county and local entities may utilize the terms and conditions established by this Contract if agreeable to all parties. The County does not accept any responsibility or involvement in the purchase orders or contracts issued by other public agencies.

### **13.2 Assignment**

Neither party shall assign any interest, obligation or benefit under or in this Contract or transfer any interest in the same, whether by assignment or novation, without prior written consent of the other party. If assignment is approved, this Contract shall be binding upon and inure to the benefit of the successors of the assigning party. This provision shall not prevent Contractor from pledging any proceeds from this Contract as security to a lender so long as King County Policy Fin10-1 (AP), section 6.1.3 is followed. If an assignment is approved, it shall be effective upon the posting of all required bonds, securities and the like by the assignee and the written agreement by assignee to assume and be responsible for the obligations and liabilities of the Contract, known and unknown, and applicable law.

### **13.3 Force Majeure**

The term "force majeure" shall include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, terrorism, fire, accidents, shutdowns for purpose of emergency repairs, industrial, civil or public disturbances, causing the inability to perform the requirements of this Contract. If any party is rendered unable, wholly or in part, by a force majeure event to perform or comply with any obligation or condition of this Contract, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent commercially practicable to restore normal operations. In the event the Contractor ceases to be excused pursuant to this provision, then the County shall be entitled to exercise any remedies otherwise provided for in this Contract, including termination for default.

### **13.4 Recycled Products Policy**

Contractors able to supply products containing recycled and environmentally preferable materials that meet performance requirements are encouraged to offer them in bids and proposals.

The Contractor shall use recycled paper for all printed and photocopied documents related to the submission of this solicitation and fulfillment of the Contract and shall, whenever practicable, use both sides of the paper.

Ref: KCC 10.16 & King County Executive Policy CON 7-1-2.

### **13.5 HIPAA – Protecting Patient Privacy**

The Work under this Contract may require compliance with "The Health Insurance Portability and Accountability Act of 1996" (HIPAA). Information on this Act can be found at the U.S. Office of Civil Rights website: <http://www.hhs.gov/ocr/hipaa/>.

### **13.6 No Third Party Beneficiary**

This Contract is for the sole and exclusive benefit of the County and the Contractor and shall not create a contractual relationship with, or cause of action in favor of, any third party.

### **13.7 Severability**

Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid and enforceable and have the intent and economic effect as close as possible to the invalid, illegal and unenforceable provision.

### **13.8 Non-Waiver of Breach**

No action or failure to act by the County shall constitute a waiver of any right or duty afforded to the County under the Contract; nor shall any such action or failure to act by the County constitute an approval of, or acquiescence in, any breach hereunder, except as may be specifically stated by the County in writing.

## **SECTION 14 FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS**

This Contract shall be partially funded by the Federal Transit Administration (FTA). The following provisions include, in part, certain standard terms and conditions required by the U.S. Department of Transportation. All Contractual provisions required by the U.S. Department of Transportation, as set forth in FTA Circular 4220.1F, dated November 1, 2008, as are the requirements of the Master Agreement between King County and the U.S. Department of Transportation, including all “flow down” provisions to third party Contractors, Subcontractors and or suppliers are hereby incorporated by reference. Unless stated otherwise, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any County requests that would cause the County to be in violation of the FTA terms and conditions.

### **14.1 Changes in Federal laws, Regulations, Policies and Administrative Practices**

New federal laws, regulations, and directives may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing federal requirements, the Contractor agrees to accept all changed requirements that apply to this Contract and require Subcontractors comply with revised requirements as well.

Ref: FTA Master Agreement MA (16), 10-1-2009, Section 2(c).

### **14.2 Federal Changes**

The Contractor agrees to comply with all applicable FTA laws, regulations and directives, including without limitation, those listed directly or by reference in the Master Agreement between the County and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor’s failure to comply shall constitute a material breach of this Contract.

Ref: 49 CFR Part 18 and FTA Master Agreement MA (16), 10-1-2009, Section 2(c).

### **14.3 No Federal Government Obligations to Third Parties**

The Contractor agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Contractor or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who shall be subject to its provisions.

Ref: FTA Master Agreement MA (16), 10-1-2009, Section 2(f).

### **14.4 Equal Employment Opportunity**

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Contractor shall take affirmative action to ensure that the hiring of applicants and treatment of employees during employment is conducted without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor

further agrees to insert a similar provision in all Subcontracts, except Subcontracts for standard commercial supplies or raw materials.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

Ref: Executive Order 11246, as amended by Executive Order 11375; Title VII of the Civil Rights Act, as amended, 42 USC § 2000e; Federal transit laws at 49 USC § 5332; section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC §§ 621-634; section 102 of the Americans with Disabilities Act, as amended, 42 USC §§ 12101 et seq.; 29 CFR Parts 1625 and 1630; 41 CFR § 60-1.4, Title IX of the Education Amendments of 1972, as amended, 20 USC §§ 1681 et seq., and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, " 49 CFR Part 25. .

#### **14.5 Title VI Compliance**

The Contractor shall comply with and shall ensure the compliance by all Subcontractors under this Contract with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 USC 2000d) and the regulations of the federal Department of Transportation, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act," 49 CFR Part 21, (hereinafter "Regulations") as they may be amended from time to time. The Federal Government and or the County has a right to seek judicial enforcement with regard to any matter arising under Title IV of the Civil Rights Act and implementing regulations.

Ref: 49 CFR Part 21.19.

During the performance of this Contract, the Contractor, for itself, its assignees and successors-in-interest agrees as follows:

- A. Nondiscrimination—49 CFR Part 26. The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of United States Department of Transportation ("USDOT") — assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the County deems appropriate.
- B. Prompt Payment. The Contractor agrees to pay each Subcontractor under this Contract for satisfactory performance of its Contract no later than thirty (30) Days from the receipt of each payment the Contractor receives from the County. The Contractor agrees further to return retainage payments to each Subcontractor within thirty (30) Days after the Subcontractor's Work is satisfactorily completed. Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval of the County. This clause applies to both DBE and non-DBE Subcontractors.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for Work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

- D. Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, King County shall impose such contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:
  - 1. Withholding of payments to the Contractor under the contract until the Contractor complies, and/or
  - 2. Cancellation, termination, or suspension of the contract, in whole or in part.
- E. Incorporation of Provisions. The Contractor shall include the provisions of paragraphs A through D in every Subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the County or the FTA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the County to enter into such litigation to protect the interests of the County and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- F. Contractor's List. Contractor is requested to submit the name, address, DBE/Non-DBE status, annual gross receipts, and age of all Subcontractors and suppliers bidding or quoting on DOT-assisted projects. **Compliance with the requirement to report the Contractor's List information is a matter of responsibility.** Contractor is requested to submit the Contractor's List prior to Contract Work.

#### 14.6 Disadvantaged Business Enterprise Requirements.

- A. DBE Participation. The County has not established a DBE goal for this Contract. In accordance with this section, the County has an overall annual DBE goal of thirteen percent (13%) for FTA assisted projects. However, the County requires that the Contractor report any actual DBE participation on this Contract to enable the County to monitor accurately DBE program compliance.
- B. Reporting Requirement. The USDOT requires that the Contractor report any actual DBE participation on this Contract to enable the County to monitor DBE participation accurately and for reporting purposes.
- C. DBE Eligibility. A DBE means a business certified as a DBE by the Washington State Office of Minority and Women's Business Enterprise (OMWBE).
- D. DBE Listing. A Directory of DBE firms certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) is available online at the following website address: <http://www.omwbe.wa.gov/directory/directory.htm> Telephone the OMWBE at 360-753-9693. **All DBE firms must be certified by OMWBE.**
- E. Counting DBE Participation. The County will count DBE participation toward its annual overall DBE goal as provided for in 49 CFR 26.55.
  - 1. DBE Contractor. The County will only count the Work a DBE Contractor performs with its own forces as well as the Work performed by DBE Subcontractors with their own work forces.
  - 2. Joint Venture. When a DBE performs as a participant in a joint venture, King County will only count that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the Work that the DBE performs with its own forces.

3. Commercially Useful Function. The County will count expenditures to a DBE contractor only for DBEs who perform a commercially useful function on that contract.
  - a. DBE performs a commercially useful function when it is responsible for execution of the Work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the Work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable) and paying for the material itself.
  - b. DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract or project through which funds is passed in order to obtain the appearance of DBE participation.
    - (1) A DBE does not perform a commercially useful function if it fails to exercise responsibility with its own work force for at least 30 percent of the total cost of its contract, or the DBE subcontracts a greater portion of the Work of a Contract than would be expected on the basis of normal industry practice for the type of Work involved.
4. Expenditures with DBEs. Expenditures with DBEs for materials or supplies shall be counted as provided in the following:
  - a. **Manufacturer.** If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies towards the DBE goal. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
  - b. **Regular Dealer.** If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
    - (1) To be a regular dealer a firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
  - c. A Person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business, as provided in this Section (4)(b), if the Person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. The cost of the materials and supplies themselves shall be counted.
5. Purchases from a DBE. With respect to materials or supplies purchased from a DBE who is neither a manufacturer nor a regular dealer, count the entire amount of

fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are reasonable and typical for the services rendered. No part of the cost of the materials and supplies themselves shall be counted.

#### **14.7 Disadvantaged Business Enterprise and Other Small Business Participation**

The County encourages Contractors to carry out the following steps to facilitate DBE and other small business participation, which may be either on a direct basis in response to this solicitation or as a Subcontractor to a bidder.

- A. Solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) DBE and other small businesses that have the capability to perform the Work of the Contract.
- B. Select portions of the Work to be performed by Subcontractors to increase the likelihood that DBE and other small businesses' goals will be achieved
- C. Provide interested Subcontractors with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- D. Negotiate in good faith with interested DBEs and other small businesses.
- E. Avoid rejecting DBEs and other small businesses as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to obtain DBE and other small business participation.
- F. Make efforts to assist interested DBEs and other small businesses in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
- G. Make efforts to assist interested DBEs and other small businesses in obtaining necessary equipment, supplies, materials, or related assistance or services.
- H. Effectively use the services of available minority/women community organizations, Contractors' groups, local, state, and Federal minority/women business assistance offices; Disadvantaged Business Enterprise and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs and other small businesses.

#### **14.8 Audit and Inspection of Records**

In the case of all negotiated Contracts and Contracts for construction, reconstruction or improvement of facilities and equipment, which were entered into under other than competitive proposal procedures, Contractor agrees that the County, the Comptroller General of the United States or any of their duly authorized representatives, shall, for the purpose of audit and examination be permitted to inspect and reproduce as needed all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records and accounts with regard to the project. Further, Contractor agrees to maintain all required records for at least three (3) years after the County makes final payment and all other pending matters are closed.

Ref: 49 USC § 5325(g); 18 CFR Part 18.36 (i); 49 CFR Part 633.17; and FTA Master Agreement MA (16), 10-1-2009, Section 8 (c) and (d).

#### **14.9 Privacy**

Should the Contractor, or any of its Subcontractors, or their employees administer any system of records on behalf of the Federal Government, the Privacy Act of 1974, 5 USC § 552a, imposes information restrictions on the party administering the system of records.

For purposes of the Privacy Act, when the Agreement involves the operation of a system of records on individuals to accomplish a government function, the recipient and any Contractors, third party Contractors, Subcontractors and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this provision of this Contract shall make this Contract subject to termination.

The Contractor agrees to include this clause in all subcontracts awarded under this Contract that involve the design, development, operation, or maintenance of any system of records on individuals subject to the Act.

#### **14.10 Access Requirements for Individuals with Disabilities**

The County and the Contractor are required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; and 49 USC § 5301(d), and the following regulations and any amendments thereto:

- A. U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
- B. U.S. Department of Transportation regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities receiving from Federal Financial Assistance," 49 CFR Part 27;
- C. U.S. Department of Transportation regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 CFR Part 38;
- D. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR Part 35;
- E. U.S. Department of Justice regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
- F. U.S. General Services Administration regulations, "Construction and Alteration of Public Buildings," 41 CFR Subpart 101-19;
- G. U.S. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;
- H. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F; and
- I. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609.

#### **14.11 Interest of Members of or Delegates of Congress**

Pursuant to 41 USC § 22, no member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising there from.



#### **14.12 Certification Regarding Debarment, Suspension and Other Responsibility Matters**

This Contract is a covered transaction for purposes of 2 CFR part 1200. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 2 CFR 1200, Subpart C and must include the requirement to comply with 2 CFR 1200, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting this Contract, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by King County. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to King County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR 1200, Subpart C while this offer is valid and throughout the period of any Contract that may arise from this Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **14.13 Disclosure of Lobbying Activities**

Contracts in excess of \$100,000 require a Certificate of Lobbying Activities, to be completed and submitted to the County with the proposal, as required by 49 CFR Part 20, "New Restrictions on Lobbying."

The Contractor certifies that it shall not and has not used Federal appropriated funds to pay any Person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Contract, grant or any other award covered by the Byrd Anti-Lobbying Amendment, 31 USC § 1352. The Contractor shall disclose the name of any registrant under the Lobbying Disclosure Act of 1995, codified at 2 USC § 1601 et seq., who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal Contract, grant or award covered by 31 USC § 1352. Such disclosures are to be forwarded to the County.

The Contractor shall include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

Ref: 49 CFR Part 20, modified as necessary by 31 USC § 1352.

#### **14.14 False or Fraudulent Statements or Claims**

The Contractor acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the County in connection with this project, the County reserves the right to pursue the procedures and impose on the recipient the penalties of 18 USC § 1001, 31 USC §§ 3729 and 3801 et seq., and/or 49 USC § 5307(k)(1), as may be appropriate. The terms of Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, are applicable to this project.

The Contractor agrees to include this clause in all subcontracts awarded under this Contract.

#### **14.15 Energy Conservation**

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 USC §§ 6321 *et seq.*, and 49 CFR Part 18.

The Contractor agrees to include this clause in all subcontracts awarded under this Contract.

#### **14.16 Air Pollution**

The Contractor and suppliers may be required to submit evidence to the Project Manager that the governing air pollution criteria shall be met. This evidence and related documents shall be retained by the manager for on-site examination by FTA.

#### **14.17 Environmental Requirements**

The Contractor agrees to comply with all applicable standards, orders or requirements as follows:

##### **A. Environmental Protection**

The Contractor agrees to comply with the applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended, 42 USC §§ 4321, *et seq.*, consistent with Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 USC § 4321 note. FTA statutory requirements on environmental matters at 49 USC § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 42 USC § 4321 *et seq.* and 40 CFR Part 1500, *et seq.*; and joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 CFR Part 771 and 49 CFR Part 622.

##### **B. Air Quality**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to 42 USC § 7606. The Contractor agrees to report each violation to the County and understands and agrees that the County shall, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to include this clause in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Ref: 42 USC § 7606; 40 CFR Part 51, Subpart T; 40 CFR Part 85; 40 CFR Part 86; and 40 CFR Part 600.

##### **C. Clean Water**

The Contractor agrees to comply with all applicable laws, regulations, and directives issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§ 1251-1377. The Contractor agrees to report each violation to the County and understands and agrees that the County shall, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 USC §§ 300f through 300j-6.

The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Ref: 33 USC § 1251.

**D. Use of Public Lands**

The Contractor agrees that no publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance as determined by the federal, state or local officials having jurisdiction thereof, or any land from a historic site of national, state, or local significance may be used unless the FTA makes the specific findings required by 49 USC § 303.

**E. Mitigation of Adverse Environmental Effects**

The Contractor agrees that if the Work should cause adverse environmental effects, the Contractor shall take all reasonable steps to minimize those effects in accordance with 49 USC § 5324(b), and all other applicable federal laws and regulations, specifically, the procedures of 23 CFR Part 771 and 49 CFR Part 622, 23 CFR 774.

**F. Wild and Scenic Rivers**

The Contractor agrees to comply with applicable provisions of the Wild and Scenic Rivers Act of 1968, as amended, 16 USC §§ 1271 -1287, relating to protecting components of the national wild and scenic river system, with applicable implementing U.S. Forest Service regulations, "Wild and Scenic Rivers," 36 CFR Part 297, and with applicable implementing U.S. Bureau of Land Management regulations, "Management Areas," 43 CFR 8350.

**14.18 Preference for Recycled Products**

To the extent practicable and economically feasible, the Contractor agrees to Provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient. Examples of such products may include, but are not limited to, products described in the United States EPA Guidelines at 40 CFR Part 247, implementing section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC § 6962.

**14.19 Patent Rights**

If any invention, improvement, or discovery of the Contractor or any of its Subcontractors is conceived or first actually reduced to practice in the course of or under this Contract, and that invention, improvement, or discovery is patentable under the laws of the United States or any foreign country, the Contractor agrees to notify the County immediately and Provide a detailed report in a format satisfactory to the FTA. The rights and responsibilities of the Contractor and the County with respect to such invention, improvement or discovery shall be determined in accordance with applicable federal laws, regulations, policies, and any waiver thereof.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, academic institution, individual), the County and the Contractor agree to take the necessary actions to Provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor also agrees to include the requirements of this section in each subcontract for experimental, developmental, or research Work financed in whole or in part with Federal assistance Provided by FTA.

FTA considers income earned from license fees and royalties for patents, patent applications, and inventions produced under the Contract to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 CFR Parts 18 and 19, Contractor has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 USC §§ 200 *et seq.*, which applies to patent rights developed under a research project.

Ref: 49 CFR Parts 18 and 19, 37 CFR Part 401, USC §§ 200 *et seq*

#### **14.20 Rights in Data and Copyrights**

Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Recipient authorize others to do so, without the prior written consent of the Federal Government, unless the Federal Government has previously released or approved the release of such data to the public.

A. Federal Rights in Data and Copyrights

The Contractor agrees to provide to the Federal Government a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in this subsection.

B. License Fees and Royalties.

FTA considers income earned from license fees and royalties for copyrighted material, or trademarks produced under the Work to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 CFR Parts 18 and 19, the Contractor has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 USC §§ 200 *et seq.*, which applies to patent rights developed under a research project.

C. Restrictions on Access to Patent Rights

Nothing in this subsection pertaining to rights in data shall either imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

D. Data Developed Without Federal Funding or Support

In connection with the Contract, the Contractor may find it necessary to provide data to the County developed without any Federal funding or support by the Federal Government. The requirements of Federal Rights in Data and Copyrights do not apply to data developed without Federal funding or support by the Federal Government, even though that data may have been used in connection with this Contract. Nevertheless, Contractor understands and agrees that the Federal Government will not be able to protect data from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential."

#### **14.21 Termination Provisions Required**

All Contracts and subcontracts in excess of \$10,000 shall contain contractual provisions or conditions that allow for termination for cause and convenience by the County including the manner by which it shall be effected and the basis for settlement.

Ref: FTA Circular 4220.1F § IV.2.b.

#### **14.22 Breach Provisions Required**

All Contracts in excess of \$100,000 shall contain contractual provisions or conditions that shall allow for administrative, contractual, or legal remedies in instances where the Contractor violates or breaches the terms of this Contract, including sanctions and penalties as may be appropriate. The Contractor agrees to include this provisional requirement in all subcontracts in excess of \$100,000 awarded under this Contract.

Ref: FTA Circular 4220.1F, § IV.2.B

#### **14.23 Substance Abuse**

Contractor and its subcontractors agrees to comply with U.S. OMB Guidance, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 2 CFR Part 182, and U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 49 CFR Part 32, that implement the Drug-Free Workplace Act of 1988, 41 USC §§ 701 *et seq.*, including any amendments to these U.S. DOT regulations when they are promulgated, and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, that implement 49 USC § 5331.



CERTIFICATE OF LOBBYING ACTIVITIES  
CONTRACT NO. 1779-11-CFR

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1.1 No federally appropriated funds have been paid or Will be paid, by or on behalf of the undersigned, to any Person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal Contract, grant, loan or cooperative agreement.
- 1.2 If any funds other than federally appropriated funds have been paid or Will be paid to any Person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee or a Member of Congress in connection with this federal Contract, grant, loan or cooperative agreement, the undersigned Shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," to the Contract administrator.
- 1.3 The undersigned Shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-Contracts, sub-grants and Contracts under grants, loans and cooperative agreements) and that all recipients of Subcontract awards in excess of \$100,000 Shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by § 1352, Title 31, U.S. Code. Any Person who fails to file the required certification Shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

**END OF TERMS AND CONDITIONS**